

EDUCATION

STATE BOARD OF EDUCATION

Fiscal Accountability, Efficiency, and Budgeting Procedures

Proposed Readoption with Amendments: N.J.A.C. 6A:23A-16 through 22

Authorized By: New Jersey State Board of Education, Kimberley Harrington, Acting

Commissioner, Department of Education, Secretary, State Board of Education.

Authority: N.J.S.A. 18A:4-15.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-204.

Submit written comments by February 17, 2017, to:

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The agency proposal follows:

Summary

The Department of Education proposes to readopt N.J.A.C. 6A:23A, Fiscal Accountability, Efficiency, and Budgeting Procedures, Subchapters 16 through 22 with amendments. The chapter was scheduled to expire November 25, 2016, pursuant to N.J.S.A.

52:14B-5.1. As the Department filed this notice with the Office of Administrative Law prior to that date, the expiration date of Subchapters 16 through 22 is extended 180 days to May 24, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). Subchapters 16 through 22 provide for fiscal accountability, financial accounting, and recordkeeping, calculation of tuition for public schools and private schools for students with disabilities (PSSDs), residency determination, and the financial operations of charter schools.

Subchapters 16 through 22 previously were codified at N.J.A.C. 6A:23, Finance and Business Services, until November 18, 2009, when the State Board voted to recodify the chapter as N.J.A.C. 6A:23A-16 through 22. Shortly before the recodification, the Commissioner adopted the first two phases of its fiscal accountability rules as N.J.A.C. 6A:23A-1 through 15. The combination of all 22 subchapters are compiled under one chapter, all rules concerning the fiscal operations of school districts, charter schools, and PSSDs.

Subchapters 16 through 22 are proposed for readoption as State Board of Education rules consistent with the original authority that established the rules. The Commissioner is also proposing a rulemaking to readopt Subchapters 1 through 15, published elsewhere in this issue of the New Jersey Register, pursuant to the original authority that established the subchapters.

The Department proposes amendments throughout N.J.A.C. 6A:23A-16 through 22 to replace references to the “Division of Finance” with “Office of School Facilities and Finance” to reflect the current title and to replace “Comparative Spending Guide” with “Taxpayers’ Guide to Education Spending” to reflect the change in the guide’s title.

Unless otherwise specified below, all other amendments are for grammatical improvement or to update Administrative Code cross-references.

Subchapter 16. Double-Entry Bookkeeping and GAAP Accounting

This section provides the requirements for school district accounting and financial reporting.

N.J.A.C. 6A:23A-16.1 Prescribed system of double-entry bookkeeping and GAAP accounting

This section requires district boards of education and charter school boards of trustees to maintain a uniform system of financial bookkeeping and reporting consistent with generally accepted accounting principles (GAAP), and the Federal financial accounting terminology and classifications for local and State school systems.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.1(b), which requires each district board of education and charter school board of trustees to ensure the uniform system is consistent with GAAP and compatible with financial accounting terminology and classifications in the Financial Accounting for Local and State School Systems, 2003, to replace “2003” with “2014” to update the edition of the Federal chart of accounts manual. The same amendment is proposed at N.J.A.C. 6A:23A-16.2(f)1.

N.J.A.C. 6A:23A-16.2 Principles and directives for accounting and reporting

This section directs school districts and charter schools to follow accounting and reporting directives prepared, published, and distributed by the Commissioner. The section also establishes criteria for the required system of accounting and reporting objectives and for the annual budget and monthly financial statements and reports. The section further requires each school district and charter school to prepare and publish a Comprehensive Annual Financial Report (CAFR) and to maintain legal reserves.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.2(i)2iii, which requires, in accordance with New Jersey Office of Management and Budget (NJOMB) Circular Letter 98-

07, a district board of education or charter school board of trustees ensures the public school accountant provides the Department a copy of the most recent external peer/quality report within 30 days after the initial engagement of the licensed public school accountant or firm and within 30 days after the issuance of a subsequent peer/quality report, to replace “98-07” with “15-08.” The Department also proposes to add the circular’s title -- “Single Audit Policy for Recipients of Federal Grants, State Grants, and State Aid.” NJOMB no longer publishes outdated circulars on its website; therefore, inclusion of the circular’s title will make it easier to find the relevant circular if it is replaced in the future.

N.J.A.C. 6A:23A-16.3 Conflicts between legal provisions and GAAP

This section requires that the district board of education or charter school board of trustees provide additional schedules and a narrative in the CAFR, when financial statements prepared in accordance with GAAP do not demonstrate legal, State, or Federal compliance.

N.J.A.C. 6A:23A-16.4 Minimum bond requirements for treasurer of school moneys

This section concerns minimum surety bond requirements for the treasurer of school moneys. The section also requires that a district board of education and charter school board of trustees ensure the independent school auditor verifies the adequacy of the treasurer’s surety bond and includes appropriate comment and a recommendation, if needed, in the annual school audit report.

N.J.A.C. 6A:23A-16.5 Supplies and equipment

This section establishes criteria to distinguish between supplies and equipment for accounting purposes. The section also requires a district board of education or charter school board of trustees that elects to purchase food supplies pursuant to the section to adopt a policy that specifies which supplies can be purchased without advertising for bids. The section also requires that the district board of education or charter school board of trustees follow public bidding procedures for supplies that must be advertised.

N.J.A.C. 6A:23A-16.6 Mechanical bookkeeping systems

This section requires that a district board of education or charter school board of trustees that contracts for electronic data processing bookkeeping services have an annual audit prepared or obtain and maintain a copy of an audit of the internal controls of the service company or agency as prescribed by Statement of Auditing Standards (SAS) No. 70, as amended by SAS No. 88 of the American Institute of Certified Public Accounts.

The Department proposes to delete “as prescribed by Statement of Auditing Standards (SAS) No. 70, as amended by SAS No. 88 of the American Institute of Certified Public Accounts, incorporated herein by reference.” The Department proposes to add as the last sentence: “The audit shall be performed as prescribed by Statement of Standards for Attestation Engagements (SSAE) No. 16, Reporting on Controls at a Service Organization.” SSAE No. 16 contains the new standards for audits of service organizations that process data for district boards of education or charter school boards of trustees.

N.J.A.C. 6A:23A-16.7 Employee organizational dues

This section authorizes deductions made from employee's compensation for the purpose of paying dues to a bona fide employee organization and requires the deductions to be submitted to the employee organization. The section also requires school district or charter school employees who select to have payroll deductions of organizational dues to indicate, in writing, their choice of employee organization, which can be withdrawn at any time.

N.J.A.C. 6A:23A-16.8 Petty cash fund

This section permits the use of a petty cash fund(s) for the purpose of making immediate payments of comparatively small amounts. The section also establishes criteria for establishment of petty cash funds.

N.J.A.C. 6A:23A-16.9 Summer payment plans

This section authorizes district boards of education to establish a summer payment plan to provide for withholding 10 percent of the salary of 10-month employees during the academic year. The section also requires that the district board of education ensure that the amount withheld earns interest and is available to the employee either at the end of the academic year or in installments prior to September 1.

N.J.A.C. 6A:23A-16.10 Budgetary controls and over-expenditure of funds

This section requires that a district board of education or charter school board of trustees implements controls over budgeted revenues and appropriations, and requires any school district or charter school projecting a deficit to follow specific reporting procedures, including the creation of a corrective action plan. The section also requires that all district boards of education

and charter school boards of trustees follow detailed financial reporting procedures at every meeting, and establishes a timeline for the executive county superintendent to report to the Commissioner any over expenditure by a school district or charter school. The section further authorizes the Commissioner to reduce State payments to any school district or charter school that fails to implement a corrective action plan.

The Department proposes an amendment at N.J.A.C. 6A:23A-16.10(a)4 and (c)3ii, which requires the school business administrator/board secretary to reflect in the minutes the certification or a detailed account of all transfers and their ratification and requires the transfers to be made in accordance with the subchapter and four statutes. The Department proposes to delete the reference to N.J.S.A. 18A:7F-6.c, which was repealed by P.L. 2007, c. 260.

N.J.A.C. 6A:23A-16.11 Internal service funds

This section describes internal service funds, which are used to account for and report any activity that provides goods and services from one department or office to other departments or offices of the district board of education, or to other district boards of education and governmental units, on a cost-reimbursement basis. The section also permits a district board of education providing a shared service within the school district to allocate costs on a user-charge or other basis.

N.J.A.C. 6A:23A-16.12 Student activity funds

This section defines student activity funds derived from athletic events or other activities of pupil organizations, and requires the funds to be maintained in separate interest-bearing accounts. The section also requires the district board of education or charter school board of

trustees to establish activity funds by resolution and to adopt a policy that will ensure appropriate fiscal accountability.

N.J.A.C. 6A:23A-16.13 School store business practices

This section requires a district board of education or any organization under its auspices to comply with sales tax rules established by the New Jersey Division of Taxation when operating a school store or offering goods for sale.

N.J.A.C. 6A:23A-16.14 Dismissal or re-assignment of a school business administrator

This section requires notice to the executive county superintendent regarding transfer or dismissal of the school business administrator.

N.J.A.C. 6A:23A-16.15 Appeals

This section provides that Commissioner decisions issued pursuant to this chapter can be appealed to the Appellate Division of the Superior Court. Decisions of the assistant commissioner and executive county superintendent issued pursuant to this chapter can be appealed pursuant to N.J.A.C. 6A:3, Controversies and Disputes.

Subchapter 17. Tuition Public Schools

N.J.A.C. 6A:23A-17.1 Method of determining tuition rates for regular public schools

This section defines the actual cost per student for the calculation of the maximum tuition rate a receiving school district is permitted to charge parents and sending school districts, which is certified annually by the Department. The section requires the district board of education to apportion expenditures by program category and provides examples of the accounting for various expenditure items. The section further requires the receiving and sending district boards of education to establish, in their contractual agreement, a tentative tuition rate, and sets forth how the estimated cost per student must be determined. The section also permits certain district boards of education to change the method of determining their tuition rates, with Commissioner approval.

The Department proposes to amend N.J.A.C. 6A:23A-17.1(b), which defines “actual cost per student” for determining tuition rates, to replace “P.L. 2007, c. 260” with the statutory reference “N.J.S.A. 18A:7F-54.”

The Department proposes to delete N.J.A.C. 6A:23A-17.1(b)3, which requires a receiving district board of education to phase-out, beginning in the 2008-2009 school year, the reduction in the “actual cost per pupil” by the amount of Abbott Parity Remedy Aid, Educational Opportunity Aid, and Discretionary Educational Opportunity Aid. The rule also requires the receiving district to reduce, as appropriate, the “actual cost per student” for all grade and program categories by the total amount of the referenced aid categories received in the 2007-2008 school year according to the specified timeline. The regulation further requires the receiving district board of education to make no reduction to the “actual cost per pupil” for this purpose for the 2012-2013 school year and thereafter. The years for reduction of tuition by the amount of State aid to former Abbott school districts has passed; therefore, the regulation is obsolete.

The Department also proposes to delete N.J.A.C. 6A:23A-17.1(e)8, which requires the actual and prorated expenditures for all grade/program categories adjusted to determine the

“actual cost per pupil” according to a specified protocol for school years 2008-2009 through 2011-2012, for the same reason discussed above regarding paragraph (b)3.

N.J.A.C. 6A:23A-17.2 Method of determining tuition rate in a new district board of education

This section applies to establishing tuition rates in school districts in their first year of operation. It requires new district boards of education to submit tuition rates based on budgeted costs for Commissioner approval and requires sending districts to pay the approved estimated tuition rates. The section further requires the sending or receiving school district to pay for any over- or under-estimate of the tuition rate once the actual certified rate is determined.

N.J.A.C. 6A:23A-17.3 County vocational-technical school districts funding; public school district tuition payments; post-secondary vocational-technical education fund sources

This section permits county vocational school districts (CVSD) to charge tuition to sending school districts within the county and to charge an additional fee to sending school districts from outside the county. The section further permits CVSDs to receive revenue for post-secondary vocational programs provided to post-secondary students who reside within or outside the county.

The Department proposes an amendment to the section heading to remove “-technical” from “[c]ounty vocational-technical school districts” to use terminology consistent with N.J.A.C. 6A:23A-1.2 and N.J.S.A. 18A:54, which authorizes the establishment of county vocational schools and school districts. The same amendment is proposed in the heading of N.J.A.C. 6A:23A-17.4.

The Department also proposes to delete “-technical” from references to “county vocational-technical school district” or to replace “county vocational-technical school district” with “CVSD” in N.J.A.C. 6A:23A-17.3 and 17.4.

N.J.A.C. 6A:23A-17.4 Method of determining tuition rates for county vocational-technical schools

This section defines the method of determining the actual cost per student for determining the tuition rate for a CVSD. The section limits the CVSD tuition rate to the maximum (actual) cost for regular or special education programs, less other revenues received by the CVSD, such as State aid, pension and Social Security payments from the State, prior year tuition adjustments, and county contributions. The section requires the CVSD to establish sending district boards of education contractual agreements that include a tentative tuition rate. The section further requires a tuition adjustment to account for the difference between the estimated cost and the actual cost in the subsequent year.

N.J.A.C. 6A:23A-17.5 County special services school districts funding; budget limitations; tuition payments

This section permits the boards of education of county special services school districts (CSSSDs) to receive tuition for students sent by other district boards of education and prevents the CSSSDs from receiving State aid. The section requires the CSSSD boards of education to calculate tuition rates for individual special education programs and permits the CSSSD to charge a fee to sending school districts outside the county. The section further specifies tuition to the CSSSD will be transferred directly from the Department and the sending school district’s State aid will be reduced accordingly.

The Department proposes to delete the first sentence of N.J.A.C. 6A:23A-17.5(a), which states the section will be effective with the calculation of certified rates beginning with fiscal year 2010-2011, since the year has passed.

N.J.A.C. 6A:23A-17.6 Calculation of maximum general fund budget net of county contribution and maximum average tuition rate

This section defines items the CSSSD must include in its general fund budget for the determination of the tuition rate. The section also limits the tuition charges to the maximum average tuition rate per pupil (maximum tuition revenues divided by average daily enrollment).

N.J.A.C. 6A:23A-17.7 Method of determining tuition rates for county special services schools

This section defines the method of determining the actual cost per student for determining a CSSSD's tuition rate. The section requires the CSSSD to exclude from the actual cost calculation certain revenues, including costs for programs funded by other sources (county contributions, Medicaid reimbursements, etc.) and expenditures not associated with specific programs for the sending school districts. The section further requires the CSSSD to allocate funds by program category, according to workpapers provided by the Commissioner. Like previous sections for other school districts, this section requires the CSSSD to establish tentative tuition rates by contractual agreements with sending district boards of education and to ultimately adjust payments according to the CSSSD's actual costs.

Subchapter 18. Tuition for Private Schools for Students with Disabilities

The rules in this subchapter provide the methodology for calculation of tuition charged by PSSDs. The rules also establish non-allowable costs and audit requirements.

N.J.A.C. 6A:23A-18.1 Definitions

The section defines terms used in the subchapter.

N.J.A.C. 6A:23A-18.2 Tuition rate procedures

This section provides the methodology for calculation of tuition rates charged by PSSDs. The Department sets a tentative payment rate for PSSDs based on audited costs of the preceding school fiscal year and then adjusts the rate based on a reconciliation of the allowable spending of each PSSD. Tuition is based on actual allowable costs plus a percentage profit (for-profit PSSDs) or percentage increase in working capital (nonprofit PSSDs). The Department notifies PSSDs and school districts of a maximum tentative tuition rate for the ensuing school year. Further, this section allows PSSDs to charge one tuition rate per school location or separate tuition rates by class type and by school location. If the PSSD charges a rate by class type, it is required to maintain bookkeeping and accounting records by class type and school location.

N.J.A.C. 6A:23A-18.3 New approved private schools for students with disabilities

This section provides the framework for establishing a new PSSD. Prospective applicants must file, with the Office of Special Education Programs, an application to establish a PSSD, complete and file appropriate documentation, and obtain Commissioner approval prior to operating as a PSSD. Additionally, this section establishes requirements for the minimum number of public school placement students for new schools and previously approved PSSDs.

N.J.A.C. 6A:23A-18.4 Bookkeeping and accounting

This section establishes requirements for accounting and financial reporting by PSSDs. The section also specifies recordkeeping and requires PSSDs to prepare quarterly financial reports in a format prescribed by the Commissioner and submit the reports to the PSSD governing body for acceptance. The section also establishes criteria for when PSSDs may provide merit- or contingent-pay increases. This section sets rules on how PSSDs account for the costs of retirement plans or the timing of compensation increases.

N.J.A.C. 6A:23A-18.5 Non-allowable costs

This section provides a lengthy, yet non-exhaustive, list of 68 types of non-allowable costs that PSSDs are not permitted to include in the calculation of the certified actual cost per student that may reduce, in certain instances, the final tuition rate the PSSD is permitted to charge New Jersey school districts and State agencies.

N.J.A.C. 6A:23A-18.6 Surcharge

This section allows “for-profit” PSSDs to charge a tuition rate than includes an annual surcharge up to 2.5 percent of the PSSD’s allowable actual costs.

N.J.A.C. 6A:23A-18.7 Public school placement restricted working capital fund

This section allows “nonprofit” PSSDs to establish a working capital fund and requires the balance to not exceed 2.5 percent of the school's actual allowable costs.

N.J.A.C. 6A:23A-18.8 Calculation of student attendance

This section prescribes student attendance recordkeeping.

N.J.A.C. 6A:23A-18.9 Audit requirements

This section sets forth requirements for audits of annual financial statements by independent registered municipal accountants of New Jersey or an independent certified public accountant of New Jersey. The section also provides rules related to the audited tuition rate versus the tentative tuition rate.

N.J.A.C. 6A:23A-18.10 Appeals

This section provides that decisions of the assistant commissioner of the Division of Administration and Finance regarding the calculation or approval of tentative tuition rates and conditional approval status made pursuant to the subchapter can be appealed in accordance with N.J.A.C. 6A:3. This section also provides that Commissioner decisions regarding new PSSDs may be appealed to the State Board of Education.

N.J.A.C. 6A:23A-18.11 Out-of-State approved private schools for students with disabilities

This section sets forth procedures for agreement of tuition rates when a student is sent to an out-of-State PSSD or to a facility approved by the New Jersey Department of Human Services.

N.J.A.C. 6A:23A-18.12 Inspection of records

This section requires financial and accounting records of an approved PSSD or records maintained by the PSSD, or by a related party for records that pertain to a transaction between the related party and the PSSD, to be available for review and audit by the Commissioner or his or her representative(s). The section also requires all auditor workpapers used in the preparation of the year-end audited financial statements to be available for review by the Commissioner or his or her representative(s).

N.J.A.C. 6A:23A-18.13 Fiscal monitoring of approved private schools for students with disabilities and corrective action plans

This section provides for fiscal monitoring and corrective action plans when noncompliance has been determined.

N.J.A.C. 6A:23A-18.14 Fiscal information

This section requires PSSDs to submit, to the Department, specified annual fiscal information. This section also requires an affidavit by the PSSD's owners/operators that they are aware of the non-allowable costs in N.J.A.C. 6A:23A-18.5 and the costs charged as allowable costs in the PSSD tuition rate are consistent with the individualized education program of a student with disabilities and are reasonable, that is, ordinary and necessary, and not in excess of the cost that would be incurred by an ordinary prudent person in the administration of public funds. The section also requires the Department to publish annually a PSSD spending guide. The section further requires an approved PSSD to have available upon the Department's request a

copy of the board of director's minutes or, for a partnership, the minutes of the partners' meetings.

N.J.A.C. 6A:23A-18.15 Failure to comply with the Department directives

This section allows the Department to place a PSSD on conditional approval status if the school fails to comply with Department directives, such as failure to refund tuition as a result of a Department audit.

N.J.A.C. 6A:23A-18.16 Sale of assets of an approved private school for students with disabilities

This section requires an approved PSSD that sells its assets to a new or existing approved PSSD to provide the Department with a copy of the sale agreement, the allocation of purchase price, and a financial report within 90 days of the sale showing asset disposition and any corresponding refund to the sending districts based on the sale of assets.

Subchapter 19. Emergency State Aid and Residency Determination

N.J.A.C. 6A:23A-19.1 Emergency aid

This section outlines the procedures a school district must follow when applying for emergency aid from the State.

N.J.A.C. 6A:23A-19.2 Method of determining the district of residence

This section establishes the criteria for determining the district of residence for financial responsibility for students who are placed in State facilities or placed by State agencies.

The Department proposes an amendment at N.J.A.C. 6A:23A-19.2(b), which requires the “present district of residence” or “district of residence” to be determined by the Commissioner based upon the address submitted by the Department of Corrections, the Department of Human Services, or the Juvenile Justice Commission, to replace "Department of Human Services" with "Department of Children and Families" to reflect the change in the responsibility of the respective agencies. The Department of Children and Families is now responsible for submitting requests for district of residence determinations.

N.J.A.C. 6A:23A-19.3 Address submission for determining the district of residence

This section establishes how financial responsibility for a student’s education is assigned based on the address of the child’s parent(s) or guardian(s), the address of the resource family home parents, or the State.

The Department proposes an amendment at N.J.A.C. 6A:23A-19.3(a)7, which requires the district of residence determination to be based on the present address of any child who is age 18 or older, or has been legally emancipated and has lived on his or her own before the initial placement in a State facility or by a State agency. The Department proposes two grammatical amendments to clarify that there are two criterion for this rule: one that requires the student to be at least 18 years of age or legally emancipated and one that requires the student to be living on his or her own prior to the initial placement.

Subchapter 20. Purchase and Loan of Textbooks

N.J.A.C. 6A:23A-20.1 Eligibility

This section requires a district board of education in which a nonpublic school is located to purchase and to loan, without charge, textbooks to students who are State residents and attend nonpublic schools situated in the school district.

N.J.A.C. 6A:23A-20.2 Responsibility of the district board of education

This section requires the school district to distribute textbooks on an equitable basis and without discrimination to both public and nonpublic students, pursuant to N.J.S.A. 18A:58-37.1 et seq.

N.J.A.C. 6A:23A-20.3 Individual requests

This section describes the process by which a nonpublic school requests textbooks from the school district. The section also states the requests are due on or before March 1 preceding the school year.

N.J.A.C. 6A:23A-20.4 Ownership and storage of textbooks

This section requires a school district to maintain the ownership of textbooks and the responsibility for their receipt and inventory. The section also permits the district board of education to require the return of the textbooks at the end of the school year or to enter into an agreement with a nonpublic school to store the books.

N.J.A.C. 6A:23A-20.5 Accounting entries

This section permits the district board of education to include the cost of freight or postage with expenditures for the purchase of textbooks on school district financial statements. The section also requires the district board of education to enter the cost of textbooks for public school students in the general expense fund and the cost of textbooks for nonpublic students in the special revenue fund in the minimum charter of accounts.

N.J.A.C. 6A:23A-20.6 Charge for textbook loss or damage

This section allows each district board of education to make reasonable rules and regulations governing the loan of textbooks to both public and nonpublic school students. The section allows the district board of education's rules and regulations to require student reimbursement to the district board of education for damage, loss, or destruction of the loaned textbooks.

Subchapter 21. Management of Public School Contracts

N.J.A.C. 6A:23A-21.1 Change orders and open-end contracts

This section sets forth procedures for use of change orders.

N.J.A.C. 6A:23A-21.2 Acceptance of bonds under the Public School Contracts Law

This section provides requirements related to performance, bid, and/or labor and material bonds.

N.J.A.C. 6A:23A-21.3 Public sale of bonds

This section sets forth procedures related to public sale of bonds.

The Department proposes to amend N.J.A.C. 6A:23A-21.3(b), which allows a district board of education to conduct the public sale of bonds through the submission of electronic bids or proposals and in accordance with Department of Community Affairs rules at N.J.A.C. 5:32-9 and 10 to correct the references to two subchapters of the Department of Community Affairs. The proposed amendment updates the cross-reference to the Department of Community Affairs rules to N.J.A.C. 5:30-2.9 and 2.10.

6A:23A-21.4 Contracts for behind-the-wheel driver education

This section establishes procedures regarding award of contracts for behind-the-wheel driver education.

N.J.A.C. 6A:23A-21.5 Joint purchasing systems

This section allows a district board of education or charter school board of trustees to establish by resolution joint purchasing systems pursuant to N.J.S.A. 40A:11-11 and upon approval of the Director of the Division of Local Government Services in the Department of Community Affairs.

N.J.A.C. 6A:23A-21.6 Multi-year leasing

This section requires a district board of education or charter school board of trustees to execute multi-year leases only as authorized by the Public School Contracts Law and in accordance with rules promulgated by the Department of Community Affairs at N.J.A.C. 5:34-3.

The Department proposes an amendment to add a reference to N.J.S.A. 18A:20-4.2(f) to account for amendments to the Public School Contracts Law under P.L. 2010, c. 44, that concern the budgetary requirements associated with entry into a multi-lease purchase agreement.

Subchapter 22. Financial Operations of Charter Schools

N.J.A.C. 6A:23A-22.1 Definitions

This section establishes that the words and terms used in the subchapter are defined in N.J.A.C. 6A:23A-15.1.

N.J.A.C. 6A:23A-22.2 Bookkeeping and accounting for charter schools

This section requires charter schools to comply with GAAP and other requirements and provisions in N.J.A.C. 6A:23A-16.

N.J.A.C. 6A:23A-22.3 Certification

This section requires charter schools to employ or contract with a person who holds a New Jersey standard or provisional school business administrator certificate to oversee the charter school's fiscal operations.

N.J.A.C. 6A:23A-22.4 Financial requirements

This section limits the amount of time a charter school can incur debt, permits the charter school board of trustees to lease property for use as a school facility, and requires the charter

school be granted a charter by the Commissioner before it can receive any payments from a district board of education. The section also requires the charter school's share of per pupil expenditures for classroom instruction to be comparable to the average share of classroom instruction expenditures for other public schools in the State. The section also requires charter school boards of trustees to include in their bylaws provisions for the distribution of assets upon insolvency or non-renewal of the charter school charter.

N.J.A.C. 6A:23A-22.5 Public school contract law

This section requires charter schools to comply with the Public School Contracts Law.

N.J.A.C. 6A:23A-22.6 Public relations and professional services; board policies; efficiency

This section requires each charter school board of trustees to establish, by policy(ies), a strategy(ies) to minimize the cost of public relations, as defined in N.J.A.C. 6A:23A-9.3(c)14, and professional services.

N.J.A.C. 6A:23A-22.7 Charter school response to Office of Fiscal Accountability and Compliance (OFAC) investigation report

This section requires a charter school that has been subject to an audit or investigation by the Department's Office of Fiscal Accountability and Compliance (OFAC) to discuss the findings of the audit or investigation at a public meeting of the charter school board of trustees no later than 30 days after receipt of the findings.

N.J.A.C. 6A:23A-22.8 Verification of payroll check distribution

This section requires all charter schools to verify payroll at least once every three years.

The Department proposes an amendment at N.J.A.C. 6A:23A-22.8(a), which requires charter schools to require employees to produce picture identification for the release of the employee's paycheck, to delete "[b]eginning with the 2009-2010 school year" because the time period has passed. The Department also proposes to replace "district" with "charter school" in the last sentence since the section concerns charter schools rather than districts. The same amendment is proposed at N.J.A.C. 6A:23A-22.9(d)1 and 22.10(a)2 and 6.

N.J.A.C. 6A:23A-22.9 Board of trustees expenditures for non-employee activities, meals and refreshments

This section provides the allowable and prohibited expenditures for non-employee activities, meals, and refreshments.

The Department proposes an amendment at N.J.A.C. 6A:23A-22.9(d), which details costs that are not permitted using public funding pursuant to N.J.S.A. 18A:11-12 and NJOMB Circular 08-19-OMB and 06-14-OMB, to update the references to the OMB circulars with "16-11-OMB, Travel Regulations, and 11-09-OMB, Entertainment, Meals, and Refreshments." The proposed amendment will ensure charter schools are using the current OMB regulations for each area.

N.J.A.C. 6A:23A-22.10 Nepotism policy

This section requires charter school boards of trustees to implement a nepotism policy that prohibits certain administrators from hiring or supervising a relative. The section also prohibits certain charter school administrators from negotiating or voting on any contract when their relative is a member of the affected collective bargaining unit.

N.J.A.C. 6A:23A-22.11 Contributions to board members and contract awards

This section requires charter schools to establish policies and procedures to ensure the maintenance of honest and ethical relations with vendors and to guard against favoritism.

The Department proposes an amendment at N.J.A.C. 6A:23A-22.11(a), which requires charter school boards of trustees to adopt and implement the policies detailed in the subsection by January 20, 2010, to delete the sentence requiring the policies to be adopted and implemented by January 20, 2010, because the date has passed.

The Department proposes to delete N.J.A.C. 6A:23A-22.11(a)6, which exempts contributions made to charter school boards of trustees prior to December 21, 2009, from the limitations established in the subsection, since the date has passed.

N.J.A.C. 6A:23A-22.12 Internal controls

This section requires charter schools to establish specific policies and procedures on internal controls to promote operational efficiency and effectiveness, provide reliable financial information, and safeguard assets and records.

N.J.A.C. 6A:23A-22.13 Segregation of duties; organization structure

This section requires charter schools to segregate duties of all financial processes among business office staff based on available charter school resources, assessed vulnerability, and the associated cost-benefit.

N.J.A.C. 6A:23A-22.14 Standard operating procedures (SOPs) for business functions

This section requires charter schools to establish standard operating procedures (SOPs) for each task or function of the charter school's business operations.

The Department proposes an amendment at N.J.A.C. 6A:23A-22.14(a), which requires, by July 1, 2010, each charter school to establish standard operating procedures for each task or function of the charter school's business operation, to remove "[b]y July 1, 2010" since the date has passed.

N.J.A.C. 6A:23A-22.15 Approval of amounts paid in excess of approved purchase orders; board policy

This section requires charter schools to adopt a policy establishing the approval process for a remittance of payment for invoice amounts greater than the approved purchase order. The section includes specific programming requirements for the charter schools' financial systems. The section also requires the school business administrator to review, on a monthly basis, all change reports made in excess of the originally approved purchase order amount.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments govern essential activities that support the educational process and enhance fiscal accountability. The rules proposed for readoption with amendments will continue to protect the public interest by ensuring that

educational support activities will be conducted both in accordance with law and in a manner that benefits students and the general public. More than \$9 billion in public tax dollars is provided to district boards of education and charter schools boards of trustees Statewide to implement educational programs. The rules proposed for readoption with amendments are essential to promote sound administrative practices and provide for the proper expenditure of funds. The rules proposed for readoption with amendments also continue to ensure district boards of education, charter school boards of trustees, PSSDs, and the public have access to necessary information to make informed policy decisions.

Economic Impact

The rules proposed for readoption with amendments will have a positive impact on public schools, charter schools, and PSSDs through the rules' promotion of the proper expenditure of public funds by providing an orderly and efficient method for conducting essential education support activities.

In the past, the rules have provided an orderly and efficient method for the conduct of essential fiscal operations and other administrative support activities of district boards of education, charter school boards of trustees, and PSSDs. The rules proposed for readoption with amendments will continue this process and create an overall positive economic impact in terms of the degree of protection and accountability the rules provide for the proper expenditure of public funds. The rules proposed for readoption with amendments will not require the employment of additional personnel, and will not impose a negative economic impact on the State, school districts, charter schools, or PSSDs.

Federal Standards Statement

There are no Federal standards or requirements applicable to the rules proposed for readoption with amendment; therefore, a Federal standards analysis is not required.

Jobs Impact Statement

The Department anticipates the rules proposed for readoption with amendments will have no impact upon the generation or loss of jobs in the State. The rules proposed for readoption with amendments concern the fiscal operations of district boards of education, charter school boards of trustees, and PSSDs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact upon the agriculture industry in the State. The rules proposed for readoption with amendments concern the fiscal operations of district boards of education, charter school boards of trustees, and PSSDs.

Regulatory Flexibility Analysis

PSSDs meet the definition of a small business as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. With the exception of N.J.A.C. 6A:23A-18, which specifically addresses PSSDs, the rules proposed for readoption with amendments impact solely upon district boards of education, charter school and renaissance school board of trustees, and other entities regulated by the New Jersey Department of Education.

There are approximately 159 approved PSSDs in New Jersey. The rules proposed for readoption do not impose any additional reporting, recordkeeping, or compliance requirements. As in prior years, approved PSSDs are required to maintain financial records on an accrual basis

of accounting and in accordance with Department issued chart of accounts. Those records include, but are not limited to: (1) a cash receipts journal; (2) a cash disbursements journal; (3) a general ledger; (4) a tuition ledger; (5) a payroll journal; and (6) a fixed assets inventory. As in previous years, the rules proposed for readoption allow, with exception at the discretion of management, that the private schools charge one per diem tuition rate for the entire school year, which reduces the reporting and recording requirements. The private schools are required to file a year-end audit report, which must be prepared by a licensed public school accountant. The costs of such services may be included in the tuition rate charged to a district board of education, and, therefore, will not impose a financial burden on the regulated private schools. There are no additional capital costs associated with the rules proposed for readoption. Thus, as compliance costs are minimal, and may be included with the tuition rate charged to district boards of education, there should be no adverse economic impact on small businesses.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in the average costs associated with housing. The rules pertain to the fiscal operations of school districts, charter schools, and PSSDs.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood the rules proposed for readoption with amendments would evoke a change in housing production in Planning Areas 1 or 2, or within

designated centers, under the State Development and Redevelopment Plan. The rules pertain to the fiscal operations of school districts, charter schools, and PSSDs.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 6A:23A-16 through 22.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 16. [DOUBLE ENTRY] **DOUBLE-ENTRY** BOOKKEEPING AND GAAP ACCOUNTING

6A:23A-16.1 Prescribed system of double-entry bookkeeping and GAAP accounting

- (a) (No change.)
- (b) Each district board of education and charter school board of trustees shall ensure that the uniform system is fully consistent with the "generally accepted accounting principles" (henceforth referred to as **"GAAP"**) as set forth in the Governmental Accounting and Financial Reporting Standards Original Pronouncements, published annually by the Governmental Accounting Standards Board (GASB; 401 Merritt 7, [P.O.] **PO** Box 5116, Norwalk CT), incorporated herein by reference, as amended and supplemented, and is compatible with the financial accounting terminology and classifications established in the Federal accounting manual, Financial Accounting for Local and State School Systems, [2003] **2014** Edition, by the National Center for Education Statistics (NCES; K Street NW, Washington, DC 20006), incorporated herein by reference, as amended and supplemented, as prepared, published, and distributed by the Commissioner, as required

by N.J.S.A. 18A:4-14.

6A:23A-16.2 Principles and directives for accounting and reporting

- (a) Each district board of education and charter school board of trustees shall use accounting and reporting directives as prepared, published, and distributed by the Commissioner in addition to any books, materials, or bulletins, for the guidance of school officials in establishing and maintaining the double-entry bookkeeping and accounting system mandated in this subchapter.
- (b) (No change.)
- (c) Each district board of education and charter school board of trustees shall develop an accounting system that is organized and operated on a fund basis and shall:
 - 1. Report governmental, proprietary, and fiduciary funds in the fund financial statements to the extent that they have activities that meet the criteria for using those funds;
 - 2. – 4. (No change.)
- (d) Each district board of education and charter school board of trustees shall adopt an annual budget and shall include the adopted annual budget in the minutes of the board.
 - 1. A district board of education or charter school board of trustees shall develop a detailed budget statement, which includes the classification of expenditures by program and function and is prepared on a fund basis in accordance with N.J.S.A. 18A:22-8[,] **and** on a form prescribed by the Commissioner.
 - 2. A district board of education or charter school board of trustees shall prepare **a** detailed budget[s] for each special project, each capital project as separately identified in [the] **a** referendum, and each Federal or State grant and maintain [them] **the detailed budget**, along with all authorized revisions, on file in the

district board of education or charter school board of trustees' business office.

3. (No change.)
- (e) (No change.)
- (f) Each district board of education and charter school board of trustees shall use [a] common terminology and classification consistently throughout the budget, [the] accounts, and [the] financial reports of each fund, and shall adopt a chart of accounts prepared in conformity with the following:
 1. Each district board of education and charter school board of trustees shall use, for financial reporting to the Department of Education, a uniform minimum chart of accounts published and distributed by the Commissioner consistent with Financial Accounting for Local and State School Systems, [2003] **2014** Edition, developed by the National Center for Education Statistics (NCES); K Street NW, Washington DC 20006), incorporated herein by reference, as amended and supplemented.
 2. A district board of education or charter school board of trustees wishing to expand upon the minimum requirements for the budget system established in (f)1 above shall compile budget data in the expanded and minimum format each month and at the end of the fiscal year, and shall use for such expanded systems the Financial Accounting for Local and State School Systems, developed by [the National Center for Education Statistics] **NCES**, as published and distributed by the Commissioner.
 3. (No change.)
- (g) (No change.)
- (h) Each district board of education and charter school board of trustees shall prepare monthly financial statements and reports of financial condition, operating results, and other pertinent information, in accordance with directions issued by the Commissioner, to

facilitate management control of financial operations, legislative oversight, and, where necessary or desired, for external reporting purposes.

- (i) Each district board of education and charter school board of trustees shall prepare and publish a Comprehensive Annual Financial Report (henceforth referred to as CAFR) in compliance with the standards set forth by the Government Accounting and Financial Reporting Standards Original Pronouncements, incorporated herein by reference, as amended and supplemented, as prepared, published, and distributed by the Governmental Accounting Standards Board (GASB 401 Merritt 7, [P.O.] **PO** Box 5116, Norwalk CT 06856-5116) and GAAP, covering all activities of the district board of education [and] **or** charter school board of trustees. The district board of education and charter school board of trustees shall ensure that the CAFR includes, but is not limited to: an introductory section; basic financial statements; required supplementary information; schedules, narrative explanations, and a statistical section. Each district board of education and charter school board of trustees shall use the uniform program as published and distributed by the Commissioner for preparing the Comprehensive Annual Financial Report.

1. (No change.)
2. A district board of education or charter school board of trustees shall require the submission of the most recent external peer/quality report and letter of comment to the district board of education or charter school board of trustees for review and evaluation prior to each appointment of a licensed public school accountant to conduct the annual audit.
 - i. A district board of education or charter school board of trustees shall acknowledge the receipt, review, and evaluation of the external peer/quality report in the public session and [board] minutes in which the district board of education or charter school board of trustees authorizes

- the engagement of the accountant or firm to perform the audit.
- ii. A district board of education or charter school board of trustees shall require the submission of an updated external peer/quality report of the licensed public school accountant engaged by the district board of education, within 30 days after the issuance date of the external peer/quality report if such report is issued prior to the date of the audit opinion for the most recent fiscal year.
 - iii. In accordance with NJOMB Circular Letter [98-07] **15-08, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid**, including any amendments or revisions thereto, a district board of education or charter school board of trustees shall ensure that the public school accountant provides a copy of the most recent external peer/quality report to the Department, within 30 days after the initial engagement of a licensed public school accountant or firm and within 30 days after the issuance of a subsequent peer/quality report.
3. A district board of education or charter school board of trustees shall engage a public school accountant during the audit engagement period for non-auditing, management, or other consulting services only if the services comply with the [independent] **independence** standards as established in Government Auditing Standards (Yellow Book) by the Comptroller General of the United States.
 4. A district board of education or charter school board of trustees may be prohibited for good cause by the Commissioner from engaging a particular licensed public school accountant, or may be directed by the Commissioner on a process to be used in the appointment of a licensed public school accountant. For the purpose of this provision, good cause **shall** include[s] documented violations of N.J.S.A. 18A:23-1 et seq., reported deficiencies or violations identified through the

American Institute of Certified Public Accountants (AICPAs) Peer Review Process as applied by the New Jersey Society of Certified Public Accountants (NJSCPA), disciplinary action by the State Board of Accountancy or AICPA, or after an investigation by the Department and hearing before the Commissioner or his or her designee.

5. (No change.)

- (j) Each district board of education shall, pursuant to N.J.S.A. 18A:4-14, maintain legal reserves as defined at N.J.A.C. 6A:23A-1.2 and published by the Governmental Accounting Standards Board (GASB; 401 Merritt 7, [P.O.] **PO** Box 5116, Norwalk, CT) for encumbrances, or [state] **State** or other government-imposed or permitted legal restrictions. A district board of education may request approval to establish a legal reserve other than those authorized herein by submitting a written request to the [Division] **Office of School Facilities and Finance** in accordance with the annual audit program.

6A:23A-16.3 Conflicts between legal provisions and GAAP

- (a) [Where] **If** financial statements prepared in conformity with GAAP do not demonstrate finance-related legal and Federal or State contractual compliance, a district board of education or charter school board of trustees shall present such additional schedules and narrative explanations in the Comprehensive Annual Financial Report as may be necessary to report its legal compliance responsibilities and accountabilities.
- (b) (No change.)

6A:23A-16.4 Minimum bond requirements for treasurer of school moneys

- (a) Each district board of education and charter school board of trustees shall use as the minimum requirements for the surety bond for the treasurer of school moneys, such percentage of the current year's school budget as [is] required in the schedule set forth below:

<u>Total School Budget</u>	<u>Minimum Bond Required</u>
Up to \$100,000.00	20 percent of budget (Minimum \$10,000)
\$100,000.01 to \$250,000.00	\$20,000 plus 15 percent of all over \$100,000
\$250,000.01 to \$500,000.00	\$42,500 plus 13 percent of all over \$250,000
\$500,000.01 to \$750,000.00	\$75,000 plus eight percent of all over \$500,000
\$750,000.01 to \$1,000,000.00	\$95,000 plus four percent of all over \$750,000
\$1,000,000.01 to \$2,000,000.00	\$105,000 plus two percent of all over \$1,000,000
\$2,000,000.01 to \$5,000,000.00	\$125,000 plus one percent of all over \$2,000,000
\$5,000,000.01 to \$10,000,000.00	\$155,000 plus 1/2 percent of all over \$5,000,000
\$10,000,000.01 and upwards	\$180,000 plus 1/4 percent of all over \$10,000,000

- (b) (No change.)
- (c) A district board of education and charter school board of trustees shall ensure that the independent school auditor verifies the adequacy of the treasurer's surety bond, which is required by N.J.S.A. 18A:17-32, and includes appropriate comment[,] and a recommendation, if needed, in the annual school audit report.

6A:23A-16.5 Supplies and equipment

- (a) Criteria to distinguish between supplies and equipment for accounting purposes as prescribed by GAAP pursuant to N.J.A.C. 6A:23A-16.1 and contained in the Financial Accounting for Local and State School Systems, which is established by the National Center for Education Statistics (**NCES**), and further specified in the New Jersey Department of Education's Uniform Minimum Chart of Accounts for New Jersey Public Schools, is incorporated by reference herein, as amended and supplemented, and on file and may be reviewed at the Office of Administrative Law, Quakerbridge Plaza, Building 9, PO Box 049, Trenton, New Jersey and the Department of Education, PO Box 500, Trenton, New Jersey.
- (b) (No change.)
- (c) Whenever any district board of education or charter school board of trustees elects to purchase food supplies pursuant to this section, it shall adopt a policy stating what food supplies will be purchased without advertising for bids, pursuant to N.J.S.A. 18A:18A-5, designating a person or persons authorized to purchase food supplies, describing the procedure by which interested vendors may become eligible to submit quotations, and outlining the method by which the district board of education or charter school board of trustees will solicit and accept quotations. A district board of education or charter school board of trustees shall adopt this policy before the opening of school[s] each year, and shall make the policy known to the public.
- (d) A district board of education or charter school board of trustees shall provide definite and uniform specifications governing standards of quality to each eligible vendor from whom quotations are solicited.
 - 1. Each time a purchase of food supplies is to be made, the person(s) designated by the district board of education or charter school board of trustees to purchase food

supplies shall solicit quotations from interested, eligible vendors in the manner prescribed in the adopted district board of education or charter school board of trustees' policy. Quotations for fresh or frozen fruits, vegetables, and meats need not be solicited more than once in any two-week period.

2. The person(s) designated to purchase the food supplies shall purchase them from the vendor giving the lowest quotation, unless the person(s) designated by the district board of education or charter school board of trustees to purchase food supplies can justify the purchase from one of the other vendors submitting a quotation. The person(s) designated shall retain such justification, together with all quotations received, in permanent record form, **which shall be** available to school officials, the district board of education or charter school board of trustees, and the Department of Education for review and for audit for a minimum of three years.

3. (No change.)

- (e) Paragraphs (d)1 and 2 above [do] **shall** not apply to food supplies purchased by advertising for bids.

6A:23A-16.6 Mechanical bookkeeping systems

A district board of education or charter school board of trustees [which] **that** contracts for electronic data processing bookkeeping services shall annually have an audit prepared, or obtain a copy of an audit of the internal controls of the service company or agency [as prescribed by Statement of Auditing Standards (SAS) No. 70, as amended by SAS No. 88 of the American Institute of Certified Public Accountants, incorporated herein by reference,] and maintain a copy of such audit on file. **The audit shall be performed as prescribed by Statement of Standards for Attestation Engagements (SSAE) No. 16, Reporting on Controls at a Service**

Organization.

6A:23A-16.7 Employee organizational dues

- (a) Pursuant to provisions of N.J.S.A. 52:14-[15.9(e)]**15.9e**, any person holding employment with a district board of education or charter school board of trustees in this State may have deductions made from this compensation for the purpose of paying dues to a bona fide employee organization.
- (b) (No change.)
- (c) Any secretary of a district board of education or employee of a charter school board of trustees responsible for making organizational payroll deductions shall submit to the designated employee organization[,] all deductions made for such purposes.

6A:23A-16.8 Petty cash fund

- (a) – (b) (No change.)
- (c) Each person designated [per] **pursuant to** (b)3 above shall ensure that all unused petty cash funds are returned to the depository at the close of each fiscal year.

6A:23A-16.9 Summer payment plan

A district board of education, in accordance with N.J.S.A. 18A:29-3, shall establish a [Summer Payment Plan which will] **summer payment plan to** provide for withholding 10 percent of the salary of 10-month employees during the academic year. The district board of education shall ensure that the amount withheld earns interest and is available to the employee either at the end of the academic year or in installments prior to September 1.

6A:23A-16.10 Budgetary controls and overexpenditure of funds

- (a) A district board of education or charter school board of trustees shall implement controls over budgeted revenues and appropriations as follows:
1. A district board of education or charter school board of trustees shall only approve an encumbrance or expenditure (liability or payment) that, when added to the total of existing encumbrances and expenditures, does not exceed the amount appropriated by the district board of education or charter school board of trustees in the applicable line item account established pursuant to the minimum chart of accounts referenced in N.J.A.C. [6A:23-2.2(g)1] **6A:23A-16.2(f)1**.
 2. A district board of education or charter school board of trustees shall [only] approve the recording of revenues **only** when measurable and available, in accordance with GAAP, unless otherwise authorized pursuant to N.J.S.A. 18A:22-[44.2(a)]**44.2.a**. State aid and tax levy approved in the budget certified for taxes shall be recorded in full as of July 1. State restricted and unrestricted grants shall be recorded in full upon signing and execution of the grant agreement or as otherwise directed by the grantor.
 3. When a district board of education or charter school board of trustees adopts an expanded chart of accounts pursuant to N.J.A.C. [6A:23-2.2(g)2] **6A:23A-16.2(f)2**, such district board of education or charter school board of trustees shall adopt a policy concerning the controls over appropriations for line item accounts that exceed the minimum level of detail established pursuant to N.J.A.C. [6A:23-2.2(g)1] **6A:23A-16.2(f)1**. If a district board of education or charter school board of trustees fails to adopt such a policy, such school district **or charter school** shall apply the restrictions [contained] in (a)1 above to line item accounts that

exceed the minimum level of detail.

4. A district board of education or charter school board of trustees, unless otherwise restricted by law or Commissioner directive, may transfer amounts from line item accounts with available appropriation balances to permit the approval of encumbrances or expenditures otherwise prohibited in (a)1 and 3 above. A district board of education or charter school board of trustees shall make these transfers prior to the approval of [such] encumbrances or expenditures. A district board of education or charter school board of trustees shall make all transfers in accordance with N.J.S.A. 18A:22-8.1, 18A:22-8.2, [18A:7F-6.c.] and 18A:7G-31, and N.J.A.C. [6A:23-2.11, 2.13 and 2.14] **6A:23A-13.14**.
- (b) A district board of education or charter school board of trustees incurring or projecting a year-end deficit on a budget basis in the general fund, capital projects fund, or debt service fund, or for a restricted project in the special revenue fund as designated in N.J.A.C. 6A:23A-16.2(c) shall proceed in the following manner:
1. The district board of education or charter school board of trustees shall direct the chief school administrator, or charter school lead person, to notify the executive county superintendent of schools within two working days[,] of the following:
 - i. – ii. (No change.)
 2. – 3. (No change.)
 4. The office of the executive county superintendent shall immediately investigate to determine if the corrective action being taken by the district board of education or charter school board of trustees is sufficient to avoid a fund deficit or correct an actual fund deficit. If necessary, the office of the executive county superintendent shall assist the district board of education or charter school board of trustees in determining what further corrective action can be taken, or request assistance from the [Division] **Office of School Facilities and Finance**.

5. (No change.)
- (c) Each district board of education or charter school board of trustees shall ensure the following occurs at every regular district board of education or charter school board of trustees meeting:
1. The school business administrator/board secretary shall present to the district board of education or charter school board of trustees a report showing all transfers between line item accounts, as well as appropriations, adjustments to appropriations, encumbrances, and expenditures for each line item account shown on the budget form prepared in accordance with N.J.S.A. 18A:22-8. This report [is] **shall be** in addition to the report required by N.J.S.A. 18A:17-9.
 2. The school business administrator/board secretary shall report to the district board of education or charter school board of trustees any change(s) in anticipated revenue amounts and revenue sources.
 3. A district board of education or charter school board of trustees shall obtain a certification from the school business administrator/board secretary each month that the total of encumbrances and expenditures for each line item account do not exceed the line item appropriation in violation of (a) above.
 - i. If a violation has occurred, the district board of education or charter school board of trustees shall, by resolution, approve by a two-thirds affirmative vote of the authorized membership of the board, pursuant to N.J.S.A. 18A:22-8.1, to either transfer amounts among line items if no department approvals are required pursuant to N.J.A.C. 6A:23A-13, or **to** direct the school business administrator/board secretary, or the chief school administrator or charter school lead person, as appropriate, to request approval pursuant to N.J.A.C. 6A:23A-13 to transfer amounts among line items and/or from undesignated fund balance or other unbudgeted or

underbudgeted revenue to eliminate the line item account deficit(s). If the latter option is selected, the appropriate official shall provide a detailed report of approvals granted and the subsequent amounts transferred into and out of the affected line item account(s), undesignated fund balance, or other unbudgeted or underbudgeted revenue account for the board's ratification at the next regularly scheduled meeting.

- ii. As applicable, the school business administrator/board secretary shall reflect in the minutes of the board, the certification or a detailed account of all transfers and the board's ratification, when this option is selected. The district board of education or charter school board of trustees shall make such transfers in accordance with this subchapter and N.J.S.A. 18A:22-8.1, 18A:22-8.2, [18A:7F-6.c] and 18A:7G-31.

- 4. A district board of education or charter school board of trustees, after review of the school business administrator/board secretary's and treasurer's monthly financial reports and upon consultation with the appropriate school district or charter school officials, shall certify in the minutes of the board each month that no fund has been overexpended in violation of (b) above, and that sufficient funds are available to meet the district board of education's or charter school board of trustee's financial obligations for the remainder of the fiscal year.

- i. (No change.)
- ii. If the district board of education or charter school board of trustees is able to make such certification, but one or more members of the board votes no to the certification, the district board of education or charter school board of trustees shall provide to the executive county superintendent, the board vote, names(s) of **the** member(s) [that] **who** voted no, and the reason for the no vote.

- iii. Within 60 days of [month-end] **the month's end**, or later upon approval of the executive county superintendent, district boards of education subject to N.J.S.A. 18A:7F-6.b, district boards of education that satisfy less than 80 percent of indicators in the fiscal management section of the district performance review located in the Appendix to N.J.A.C. 6A:30, and other district boards of education or charter school boards of trustees at the Commissioner's discretion shall provide **to the executive county superintendent** a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the district board of education or charter school board of trustees under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 [to the executive county superintendent].
- iv. Within 60 days of the December month-end, or later upon approval of the executive county superintendent, every district board of education shall provide **to the executive county superintendent** a copy of the school business administrator/board secretary's and treasurer's monthly financial reports submitted to the board of education under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 [to the executive county superintendent].
- v. Within 60 days of the September, December, and March month end, every charter school board of trustees shall provide a copy of the monthly financial reports submitted to the board of trustees under (c)1 above and as required pursuant to N.J.S.A. 18A:17-9 and 18A:17-36 to the executive county superintendent.
- vi. Any school business administrator/board secretary [that] **who** is more than two months behind in submitting the report **required** pursuant to N.J.S.A.

18A:17-9 to a district board of education or charter school board of trustees shall immediately report this noncompliance to the executive county superintendent.

- (d) The executive county superintendent shall report to the Commissioner by August 15, or for charter schools, 45 days after end of year, all fund overexpenditures, as shown on the June report of the school business administrator/board secretary filed pursuant to N.J.S.A. 18A:17-10.

1. (No change.)
2. If necessary, the executive county superintendent shall assist the district board of education or charter school board of trustees in determining what further action can be taken, or request assistance from the [Division] **Office of School Facilities and Finance**.
3. The executive county superintendent shall immediately notify the Commissioner, in writing, [should] **if** it appears [that] the district board of education or charter school board of trustees is not taking adequate action to remediate the fund(s) deficit.

- (e) A district board of education or charter school board of trustees that fails to develop a corrective action plan or fails to take adequate action in order to avoid or remediate an overexpenditure or fund deficit may be subject to the following:

1. – 2. (No change.)
3. A district board of education or charter school board of trustees shall apply deficits incurred for State and Federal grant projects, enterprise funds such as the school lunch fund, trust and agency funds, and student activity funds, to the balance or deficit of the general fund when such overexpended projects and funds should have been balanced by expenditures from or transfers to that fund.

- (f) (No change.)

6A:23A-16.11 Internal service funds

- (a) (No change.)
- (b) A district board of education or charter school board of trustees providing a shared service under a shared service agreement with another board of education or external entity shall account for the shared service costs in an internal service fund in accordance with GAAP.
 - 1. The district board of education or charter school board of trustees providing the shared service shall allocate the costs on a [user charge] **user-charge** basis to all participating entities on an annual basis at a minimum.
 - i. – ii. (No change.)
 - 2. The district board of education or charter school board of trustees shall ensure that the shared service agreement includes an [agreed upon] **agreed-upon** mechanism for the use and/or distribution of any unexpended balance(s).
 - 3. The district board of education or charter school board of trustees shall evaluate annually any unexpended balance(s) to determine the amount of monies, if any, due back to the shared service entities.
- (c) (No change.)

6A:23A-16.12 Student activity funds

- (a) Student activity funds are used to account for funds derived from athletic events or other activities of pupil organizations and to account for the accumulation of money to pay for student group activities. A district board of education or charter school board of trustees shall establish student activity funds by resolution. Such funds [are] **shall be** maintained

under the jurisdiction of the board of education or charter school board of trustees and supervision of the school business administrator/board secretary, who may appoint a designee for purposes of administering the funds.

- (b) (No change.)
- (c) Each district board of education and charter school board of trustees shall ensure, through adoption of a formal board policy, that all financial and bookkeeping controls are adequate to ensure appropriate fiscal accountability and sound business practices. The district board of education or charter school board of trustees shall include in its policy the following minimum requirements:
 - 1. Receipts are detailed showing date, sources, purpose, and amount. The district board of education or charter school board of trustees shall promptly deposit all receipts in the bank. The district board of education or charter school board of trustees shall ensure that all deposits agree with the entries in the cash receipt book and are traceable to the actual receipts or groups of receipts.
 - 2. Disbursements [are] **shall be** recorded chronologically showing date, vendor, check number, purpose, and amount. The district board of education or charter school board of trustees shall make all disbursements by check bearing a minimum of two authorized signatures, and shall support all disbursements by a claim, bill, or written order to persons supervising the fund.
 - 3. Book balances [are] **shall be** reconciled with bank balances. The district board of education or charter school board of trustees shall retain canceled checks and bank statements for examination by the licensed public school accountant as part of the annual audit required under N.J.S.A. 18A:23-1 et seq. and stated in N.J.A.C. 6A:23A-16.2(i).
 - 4. Student activity funds [are] **shall be** classified by school.
 - 5. Borrowing from the student activity accounts [is] **shall be** prohibited.

- (d) (No change.)

6A:23A-16.13 School store business practices

A district board of education, or any organization under its auspices, shall comply with sales tax rules established by the New Jersey **Department of the Treasury's** Division of Taxation when operating a school store or offering goods for sale.

6A:23A-16.14 Dismissal or [re-assignment **reassignment** of a school business administrator

- (a) In order to protect the integrity of the school business administrator office, a district board of education shall submit to the executive county superintendent a written justification for the non-renewal, dismissal for cause, [re-assignment] **reassignment**, or elimination of the position of a school business administrator, or the individual duly certified and performing the duties of a school business administrator, within 48 hours of said notification by the district board of education to the affected employee.
- (b) The affected employee may request a meeting with the executive county superintendent to discuss the justification submitted by the district board of education. The executive county superintendent shall initiate any follow-up action as warranted on issues under the **Department's** jurisdiction [of the Department].

SUBCHAPTER 17. TUITION PUBLIC SCHOOLS

6A:23A-17.1 Method of determining tuition rates for regular public schools

- (a) (No change.)

(b) The term "actual cost per student" for determining the tuition rate or rates for a given year referred to in N.J.S.A. 18A:38-19 and 18A:46-21 means the local cost per student in average daily enrollment, based upon audited expenditures for that year for the purpose for which the tuition rate is being determined and consistent with the grade/program categories in N.J.S.A. 18A:7F-50 and 18A:7F-55, that is, regular education classes: preschool and kindergarten, grades one through five, grades six through eight, and grades nine through 12; and special class programs as defined in N.J.A.C. 6A:14-4.7. Districts that receive preschool education aid shall determine [only] an actual cost per student **only** for kindergarten **students**. Pursuant to N.J.A.C. 6A:13A-2.1, districts that receive preschool education aid and charge tuition to another district and/or parent or guardian, as permitted under N.J.A.C. 6A:13A, may charge any amount, not to exceed the per pupil amount established pursuant to [P.L. 2007, c. 260] **N.J.S.A. 18A:7F-54**.

1. – 2. (No change.)

[3. Beginning in the 2008-09 school year, a receiving district board of education shall phase-out the reduction of the "actual cost per pupil" by the amount of Abbott Parity Remedy Aid, Educational Opportunity Aid and Discretionary Educational Opportunity Aid pursuant to section 61 of P.L. 2007, c. 260. The receiving district shall reduce as appropriate the "actual cost per student" for all grade and program categories by the total amount of the above aid categories received in the 2007-08 school year as follows: .80 in the 2008-09 school year, .60 in the 2009-10 school year, .40 in the 2010-11 school year, and .20 in the 2011-12 school year. For the 2012-2013 school year and thereafter, no reduction shall be made to the "actual cost per pupil" for this purpose. The receiving district board of education shall make such reductions in accordance with the option selected in (c) below for certification of the "actual cost per student" for each tuition category.]

(c) The receiving district board of education shall obtain certification of its "actual cost per

student" for each tuition category for a given year from the Commissioner based upon either:

1. A report prepared and submitted annually by the receiving district board of education indicating the actual amounts of expenditures and adjustments, whenever practicable, or amounts equitably allocated and supported by documentation for each applicable item in the grade/program category for which the tuition rate is required, according to the prescribed bookkeeping and accounting system; or
 2. (No change.)
- (d) (No change.)
- (e) The receiving district board of education shall determine the share of each item of expenditure for each grade/program category on the report in (c)1 above on a pro rata or actual basis as follows:
1. (No change.)
 2. Expenditures submitted by category on the supplemental data report and determined on either an actual basis or an equitable basis of allocation, such as square footage or average daily enrollment selected by the receiving district board of education and supported by documentation for the following items:
 - i. (No change.)
 - ii. Interest on [lease purchase] **lease-purchase** agreements;
 - iii. School-sponsored co-curricular activities, athletics, and other instructional programs of the general fund;
 - iv. – ix. (No change.)
 3. Unallocated expenditures for general education class categories as reflected in the receiving district board of education's annual independent audit and allocated in proportion to the average daily enrollment in the grade categories for general

education classes for the following items:

- i. Other salaries for instruction such as teaching assistants and aides, as well as others providing or assisting directly in the instructional program;
 - ii. – viii. (No change.)
 - ix. Direct instructional expenditures for salaries, other expenses, and equipment for basic skills remedial programs; and
 - x. (No change.)
4. Expenditures, including related employee benefits and equipment, as reflected in the receiving district board of education's annual independent audit and allocated in proportion to the average daily enrollment in each category for all categories listed in (b) above for the following items:
- i. – v. (No change.)
 - vi. Attendance, social work, and health;
 - vii. Contracted transportation or transportation provided by district board of education owned vehicles for curricular activities such as field trips, athletic trips, and other trips [which] **that** are part of the instructional program;
 - viii. (No change.)
 - ix. Fixed charges, including unallocated employee benefit costs for retirement and [social security] **Social Security** contributions except Teacher's Pension and Annuity Fund (TPAF) contributions, insurance and judgments, including unemployment compensation (UCC), interest on current loans, and other fixed charges except rental of land and buildings and interest on lease-purchase agreements [which are] determined pursuant to (e)2 above, and principal on [lease purchase] **lease-purchase** agreements and tuition [which] **that** are excluded pursuant to (e)5 below;

- x. (No change.)
 - xi. Direct instructional expenditures for salaries, equipment, and other expenses for bilingual education programs and home instruction.
5. Expenditures that are excluded from the actual cost per student for tuition purposes for the following items:
- i. Transportation to and from school [which] **that** is paid by the resident district board of education;
 - ii. Employee retirement and social security contributions for TPAF members [which] **that** are fully funded by the State;
 - iii. Principal on [lease purchase] **lease-purchase** agreements;
 - iv. – v. (No change.)
 - vi. Resource rooms, which are determined pursuant to (e)9 below and permitted as a separate charge over and above tuition for general education classes;
 - vii. - viii. (No change.)
6. Building use charge determined as follows:
- i. Divide the amount of debt service [state] **State** support received by the debt service paid for the school year to determine the ratio of State support;
 - ii. – iv. (No change.)
7. Special building use charge determined as follows:
- i. Whenever a receiving district board of education receives more than 50 percent of the average daily enrollment in a program for which a tuition rate is being determined, the receiving district board of education may include, in accordance with (e)2 above, the amount expended for principal and interest on major repairs and major renewals of furniture, equipment,

and apparatus for the building in which the program is located, provided [that]:

- (1) (No change.)
- (2) The receiving district board of education consulted with each sending district board of education having more than 10 percent of the average daily enrollment in the program for which the tuition rate is being determined prior to taking any action in accordance with N.J.S.A. 18A:24-10 to authorize the issuance of [such] bonds; and
- (3) The majority of district boards of education with more than 10 percent of the enrollment in the program [have] passed a resolution in support of the receiving district board of education's determination to issue such bonds or the Commissioner, after a conference, [has] approved the proposal for the issuance of such bonds.

ii. A receiving district board of education for which this section is applicable may include, in accordance with (e)2 above, the entire rental on a site or school building acquired by a [lease purchase] **lease-purchase** agreement, pursuant to N.J.S.A. 18A:20-4.2, provided [that]:

- (1) The receiving district board of education consulted with each sending district board of education having more than 10 percent of the average daily enrollment in the program for which the tuition rate is being determined prior to entering into the [lease purchase] **lease-purchase** agreement; and
- (2) Each sending district board of education with more than 10 percent of the enrollment in the program [has] passed a resolution in

support of the receiving district board of education's determination to enter into a [lease purchase] **lease-purchase** agreement or the Commissioner, after a conference, [has] approved the proposal to enter into a lease-purchase agreement.

- iii. A receiving district board of education for which this section is applicable may include, in accordance with (e)2 above, a facilities acquisition and construction service charge, which is determined by the straight line amortization over three years of that part of the total expenditure for facilities acquisition and construction services [which] **that** is over and above the amount stated in the budget certified for taxes and used in (e)2v above.

[8. The actual and prorated expenditures for all grade/program categories adjusted to determine the "actual cost per student" for tuition purposes as follows:

- i. For the 2008-09 school year through the 2011-12 school year, Abbott Parity Remedy Aid, Educational Opportunity Aid and Discretionary Educational Opportunity Aid received in the 2007-08 school year shall be deducted in accordance with N.J.A.C. 6A:23A-17.1(b)3 in proportion to the average daily enrollment for each category weighted on a basis consistent with N.J.S.A. 18A:7F-49. For this purpose, the average weight for the grade categories in N.J.S.A. 18A:7F-49 shall be used to determine the weighted average daily enrollments for special education classes.]

[9.] **8.** In addition to the tuition charged for each grade category, a receiving district board of education may charge for students receiving services in a resource room an additional amount up to the actual direct instructional cost per student for such services calculated on an hourly basis (an example of the calculation is contained in Policy Bulletin: 100-1 issued by and available from the [Division] **Office** of

School Facilities and Finance, [State] Department of Education, PO Box 500,
Trenton, New Jersey 08625-0500).

- (f) The receiving district board of education and the sending district board of education shall establish by written contractual agreement a tentative tuition charge for budgetary purposes. Such tentative charge shall equal an amount not in excess of the receiving district board of education's "estimated cost per student" for the ensuing school year for the purpose or purposes for which tuition is being charged, multiplied by the "estimated average daily enrollment of students" expected to be received during the ensuing school year. Such written contract shall be on a form prepared by the Commissioner.
1. "Estimated cost per student" shall be determined by the receiving district board of education using the appropriate supporting schedule in [their] **its** annual budget for the ensuing year. In lieu of completing the form specified in (c)1 above, a receiving district board of education that has elected to use (c)1 above to certify actual cost per student shall have the option of setting an estimated cost per student up to an amount [which] **that** shall be determined by multiplying the most recent year's certified cost per student by one plus the Consumer Price Index (CPI) as defined in N.J.S.A. 18A:7F-45 for the budget year or 2.5 percent, whichever is greater. If this option is selected and more than one fiscal year has elapsed since the most recent cost per student certification, the receiving district board of education shall further increase the estimated cost per student by multiplying the above by the sum of one plus the CPI for each additional year.
 2. (No change.)
 3. The sending district board of education and the receiving district board of education shall enter into a written contractual agreement for tuition for the ensuing school year, except for a contractual agreement for a student enrolled in a special education class, no later than seven days prior to the date on which the

proposed budget for the ensuing school year is required to be submitted to the executive county superintendent. The sending district board of education shall be required in the contractual agreement to pay 10 percent of the tentative tuition charge no later than the first of each month from September through June of the contract year. The contractual agreement, except for a contractual agreement for a student enrolled in a special education class, shall require [that] all adjustments [which shall be made because of] **resulting from** a difference in cost or in the number of students sent [shall only] **to** be made **only** during the second school year following the contract year. All contractual agreements shall contain a payment schedule for all adjustments[, which] **that** may be necessary.

4. (No change.)
5. The executive county superintendent in the county in which the receiving district board of education is located shall review any unique circumstances or variations in methodology and mediate all disputes that arise from the determination of tentative tuition charges, including challenges to the estimated average daily enrollment counts generated using the formula in (f)2 above. Such a review shall include examination of the following documents:
 - i. Annual budgets, including supporting documents;
 - ii. – v. (No change.)
6. If the Commissioner later determines that the tentative tuition charge established by written contractual agreement, except for a contractual agreement for a student enrolled in a special education class, was greater than the actual cost per student during the school year multiplied by the actual [average daily enrollment] **ADE** received, the receiving district board of education shall return to the sending district board of education in the second school year following the contract year the amount by which the tentative charge exceeded the actual charge as

determined above, or, at the option of the receiving district board of education, shall credit the sending district board of education with the excess amount. The receiving district board of education shall make such adjustment for a contractual agreement for a student enrolled in a special education class no later than the end of the second school year[,] following the contract year.

7. (No change.)

8. If at the end of the contract year, a district board of education anticipates [that] a tuition adjustment will be required in the second year following the contract year, the district board of education [can] **may** restrict fund balance of up to 10 percent of the estimated tuition cost in the contract year in a legal reserve for tuition adjustments established by resolution at June 30. In such case, the district board of education shall:

i. – iii. (No change.)

(g) (No change.)

(h) In any year in which the receiving district board of education can prove, to the satisfaction of the Commissioner, that the charge for the use of the school facilities pursuant to (e)6 above is not adequate, the Commissioner may approve an additional charge for the use of such school facilities.

6A:23A-17.2 Method of determining tuition rate in a new district board of education

(a) – (b) (No change.)

(c) If, after the first year of operation, the Commissioner determines that the tentative tuition charge was greater than the actual cost, the receiving district board of education shall return, except if the tentative tuition charge was for a student who was enrolled in a special education class, in the second school year following the first year of operation to

each sending district board of education the amount by which the tentative charge exceeded the actual cost, or, at the option of the receiving district board of education, shall credit each sending district board of education with the amount by which the tentative tuition charge exceeded the actual cost. The receiving district board of education shall remit payment or credit for a student who was enrolled in a special education class no later than the end of the second school year[,] following the first year of operation.

(d) (No change.)

6A:23A-17.3 County [vocational-technical] **vocational** school districts funding; public school district tuition payments, post-secondary vocational-technical education fund sources

(a) [This section will be effective with the calculation of certified rates beginning with fiscal year 2010-2011.] The board of education of any county [vocational-technical] **vocational** school district (**CVSD**) may receive, but not be limited to, the following general fund revenue and fund sources for programs and services provided to students of local public school districts within or outside the county:

1. – 2. (No change.)

3. Tuition from the sending districts in which the pupils attending the [county vocational-technical school district] **CVSD** reside for a sum not to exceed the actual cost per pupil as determined for the applicable program as follows:

i. (No change.)

4. A nonresident fee in addition to tuition for any pupils of sending school districts who are not residents of the county whenever funds have been appropriated by the county.

i. The fee shall not exceed the amount of the county's per pupil appropriation to the [county vocational-technical school district] **CVSD**,

pursuant to N.J.S.A. 18A:54-20.1.

- ii. The maximum fee per nonresident student shall be calculated by dividing the total county appropriation to the [county vocational-technical school district] **CVSD**, pursuant to N.J.S.A. 18A:54-29.2 and (a)2 above, by the average daily enrollment (ADE) of students who are residents of the county and are sent on a tuition basis to the [county vocational-technical school district] **CVSD** by the public school districts of the county in which the [county vocational-technical school district] **CVSD** is located; and

5. (No change.)

- (b) The board of education of any [county vocational-technical school district] **CVSD** may receive, but not be limited to, the following revenue and fund sources for post-secondary vocational-technical programs provided to post-secondary students who reside within or outside the county:

1. (No change.)

2. Amounts charged pursuant to N.J.S.A. 18A:54-20.1 and 23.4 to each county of residence for post-secondary vocational-technical students who are not residents of the county as follows:

- i. \$200.00 per each [non-resident] **nonresident** post-secondary vocational-technical student to be applied to the county's share of the [county vocational-technical school district's] **CVSD's** capital expenses; and
- ii. The average county share of budgeted operating cost per full-time post-secondary vocational-technical student[s] who [are] **is a county** resident [of the county] as certified by the Commissioner; provided, however, that the said **CVSD** board may, with the approval of the Commissioner, charge and collect a higher annual amount(s) when high-cost or high-priority programs are provided.

- (1) The average county share of budgeted operating cost per full-time post-secondary vocational-technical student[s] who [are residents of the] **is a county resident** shall be calculated by dividing the county contribution, pursuant to N.J.S.A. 18A:54-29.2 and (b)1 above, by the average daily enrollment (ADE) of post-secondary vocational-technical students who are residents of the county.

6A:23A-17.4 Method of determining tuition rates for county [vocational-technical] **vocational** school[s] **districts**

- (a) The term "actual cost per student" for determining the tuition rate or rates for a given year referred to in N.J.S.A. 18A:46-21 and 18A:54-20.1 means the adjusted net cost per student in average daily enrollment, based upon audited expenditures for that year for the purpose for which the tuition rate is being determined.
 1. The [county vocational-technical school district] **CVSD** board of education shall determine tuition rates for each applicable program category consistent with N.J.A.C. 6A:23A-17.3(a)3.
 2. (No change.)
 3. The [county vocational-technical school district] **CVSD** board of education shall adjust the "actual cost per student" for all tuition categories to reflect net costs plus a reasonable surplus.
- (b) Each [county vocational-technical school district] **CVSD** board of education will receive from the Commissioner certification of the "actual cost per student" for each tuition category for a given year utilizing the following:
 1. Revenues, expenditures, and fund balances reflected in the [county vocational-technical school district's] **CVSD's** annual independent audit; and

2. Average daily enrollment data by category submitted by the [county vocational-technical school district] **CVSD** on a form prescribed by the Commissioner.
- (c) The maximum tuition rate per pupil for each education program shall be sufficient to enable the [county vocational-technical school district] **CVSD** to cover the net cost of said program.
- (d) The maximum tuition rate per pupil for each education program for sending public school districts shall be based on the net cost calculated by reducing the amount of general fund expenditures by the following:
1. State aid received pursuant to N.J.S.A. 18A:7F-43 et seq. and other sources of [state] **State** aid, except for restricted State grants;
 2. All other revenue sources other than tuition (such as the county contribution, nonresident fees, Medicaid reimbursements, and miscellaneous revenue) available to fund the education program for sending [public] school districts;
 3. All direct and indirect expenditures that are not associated with the education program for sending public school districts such as [post secondary] **post-secondary** vocational-technical programs;
 4. – 5. (No change.)
 6. Refunds of [prior year] **prior-year** tuition adjustments made to sending public school districts.
- (e) The Commissioner shall develop and disseminate workpapers for the purpose of allocating revenue, other fund sources, and expenditures amongst the various programs and services within the general fund.
1. With the exception of the regular vocational-technical education program, the actual programs and/or services will vary by individual [county vocational-technical school district] **CVSD**.
 2. The purpose of this allocation shall be to isolate the revenue, other fund sources,

and expenditures related to the tuition for each regular and special vocational-technical education program by segregating programs and services that are not related to those programs, or are related but funded through sources other than tuition.

3. Expenditures shall be allocated on a direct and indirect basis amongst the various general fund programs and services when funded through sources other than tuition, such as extraordinary special education services.

- i. Direct instructional expenditures for salaries and related benefits, textbooks, teaching supplies, purchased services, equipment, and other expenses for each program or learning disability program category, as applicable, shall be allocated on an actual basis.
- ii. When allocating indirect expenditures amongst major programs, such as regular vocational-technical education, special vocational-technical education, post-secondary vocational-technical education, and other programs, indirect expenditures, except expenditures for Teachers' Pension and Annuity Fund (TPAF) pension and social security, shall be allocated amongst the various programs based on the percent of direct expenditures in each program to the total of all direct expenditures since there is no common average daily enrollment (ADE) equivalent among all programs.

iii. – iv. (No change.)

(f) The [county vocational-technical school district] **CVSD** board of education shall adjust, as appropriate, its net cost determined for each tuition category in (d) above to include in the certified maximum tuition rate for each category an amount that will permit the [county vocational-technical school district] **CVSD** board of education to maintain at its discretion for the year the tuition rate applies an ending general fund [free] **unassigned**

balance not to exceed the amount permitted pursuant to N.J.S.A. 18A:7F-7.

1. If the [county vocational-technical school district] **CVSD** board of education's general fund budget for the prebudget year is \$100 million or less and the ending general fund free balance is less than the greater of six percent of its general fund budget or \$250,000 for the year the tuition rate applies, the [county vocational-technical school district] **CVSD** board of education shall allocate the difference amongst the tuition categories in proportion to the average daily enrollment for each category. If the amount of the general fund budget for the prebudget year exceeds \$100 million, and the undesignated general fund balance is less than the sum of six percent of the first \$100 million and three percent of the amount which exceeds \$100 million, the [county vocational-technical school district] **CVSD** board of education shall allocate the difference amongst the tuition categories in proportion to the average daily enrollment for each category.
 2. If the [county vocational-technical school district] **CVSD** board of education's general fund budget for the prebudget year is \$100 million or less and the ending general fund free balance is equal to or greater than the greater of \$250,000 or six percent of its general fund budget for the year the tuition rate applies, the [county vocational-technical school district] **CVSD** board of education shall not add an amount to the net cost of any tuition category. If the amount of the general fund budget for the prebudget year exceeds \$100 million, and the undesignated general fund balance is in excess of the sum of six percent of the first \$100 million and three percent of the amount [which] **that** exceeds \$100 million, the [county vocational district] **CVSD** board of education shall not add an amount to the net cost of any tuition category.
- (g) The [county vocational-technical school] **CVSD** board of education shall determine the tuition for each program category at the same rate per student for each sending district

board of education whether within or [without] **outside** the county pursuant to N.J.S.A. 18A:54-20.1.

- (h) Calculation of tentative tuition rates, execution of written contractual agreements, payment of tuition (including the nonresident fee), and adjustments to tentative tuition charges upon certification of actual tuition rates by the Commissioner shall be made by the [county vocational-technical school district] **CVSD** board of education in accordance with N.J.A.C. 6A:23A-17.1(e) except that the [county vocational-technical school district] **CVSD** board of education shall base the tentative tuition rates on [the county vocational-technical school district board of education's] **its** estimated adjusted net cost per student consistent with the calculation in (d) through (f) above.
- (i) The [county vocational-technical school] **CVSD** board of education shall use the "actual cost per student" certification forms, contract forms, and tentative tuition rate forms as prepared and provided by the Commissioner.

6A:23A-17.5 County special services school districts funding; budget limitations; tuition payments

- (a) [This section will be effective with the calculation of certified rates beginning with fiscal year 2010-2011.] The board of education of any county special services school district may receive, but not be limited to, the following revenue and fund sources:
 - 1. Funds [as may be] appropriated by the county, pursuant to N.J.S.A. 18A:46-41;
 - 2. Tuition from the sending districts in which the pupils attending the county special services school district reside for a sum not to exceed the actual cost per pupil as determined for [the] **each** special education program as follows:
 - i. – ii. (No change.)
 - 3. A nonresident fee, in addition to tuition for any pupils who are not residents of the

county, whenever funds have been appropriated by the county.

i. The fee shall not exceed the amount of the county's per pupil appropriation to the special services school district, pursuant to N.J.S.A. 18A:46-31.

ii. (No change.)

4. Reimbursement for [any] extraordinary special education services provided to an individual student from the student's resident district. The cost of extraordinary special education services shall not be included in the actual cost per pupil for purposes of determining tuition rates for regular year or extended year programs.

(b) Tuition rates shall be at the same rate per pupil for each sending district whether within or [without] **outside** the county and consistent with the methodology as chosen in (a)2 above.

(c) (No change.)

(d) Tuition charged to the resident district shall be deducted from the resident district's State aid and transferred directly to the county special services school district by the Department of Education.

1. The transfers shall equal 1/20th of the tuition charged and shall occur on the same schedule of State aid payments for [the] resident districts.

2. Beginning in May of the preceding year, the county special services school district shall report to the department and [the] resident districts the current enrollments and tuition rates by district. Enrollment changes reported at least 30 days in advance of a scheduled transfer shall be honored.

(e) (No change.)

6A:23A-17.6 Calculation of maximum general fund budget net of county contribution and maximum average tuition rate

(a) Pursuant to N.J.S.A. 18A:46-31, the county special services school district general fund budget, exclusive of any county contribution received pursuant to N.J.S.A. 18A:46-41, shall not exceed the general fund budget, exclusive of any county contribution received pursuant to N.J.S.A. 18A:46-41, in the prebudget year adjusted by the CPI or three percent, whichever is greater, plus an enrollment factor.

1. The general fund budget, exclusive of any county contribution, in the prebudget year shall be the sum of all originally budgeted general fund revenue and other fund sources of the prebudget year, except the county contribution of the prebudget year received pursuant to N.J.S.A. 18A:46-41, and shall include, but not be limited to, the following:

i. – iii. (No change.)

iv. [Prior year] **Prior-year** tuition adjustments received from sending public school districts;

v. – viii. (No change.)

ix. All other revenue sources of the general fund, with the exception of the county contribution received pursuant to N.J.S.A. 18A:46-41.

2. (No change.)

(b) (No change.)

(c) Any undesignated general fund balance replenishment amount to be included in the tuition rate pursuant to the provisions of N.J.S.A. 18A:46-31 shall not exceed the lesser of the amount needed to maintain a 10 percent undesignated general fund balance or the amount [which] **that** may be added to the tuition rate without exceeding the maximum general fund budget net of county contribution.

- (a) The term "actual cost per student" for determining the tuition rate or rates for a given year referred to in N.J.S.A. 18A:46-31 means the adjusted net cost per student in average daily enrollment for special education classes, based upon audited expenditures for that year.
 - 1. The county special services school district board of education shall include all expenditures for each purpose, except Federal and State grant project expenditures.
 - 2. (No change.)
- (b) Each county special services school district board of education shall obtain from the Commissioner certification of the "actual cost per student" for a given year either for the county special services school district as a whole or for each special education program by learning disability category based on the following:
 - 1. Revenues, expenditures, and fund balances reflected in the county special services school district's annual independent audit;
 - 2. (No change.)
- (c) (No change.)
- (d) The tuition rate per pupil for the regular school year special education program for sending public school districts shall be based on the net cost calculated by reducing the amount of general fund expenditures by the following:
 - 1. All revenue sources other than tuition (such as the county contribution, nonresident fees, Medicaid reimbursements, and miscellaneous revenue) available to fund the regular school year special education program for sending public school districts;
 - 2.– 3. (No change.)
 - 4. Refunds of [prior year] **prior-year** tuition adjustments made to sending public school districts.

- (e) The Commissioner shall develop and disseminate workpapers for the purpose of allocating revenue, other fund sources, and expenditures amongst the various programs and services within the general fund.
1. (No change.)
 2. The purpose of this allocation shall be to isolate the revenue, other fund sources, and expenditures related to the tuition for the regular school year special education program by segregating programs and services that are not related to the regular school year special education program, or are related but funded through sources other than regular school year special education tuition.
 3. Expenditures shall be allocated on a direct and indirect basis amongst the various general fund programs[,] and services when funded through sources other than tuition, such as extraordinary special education services.
 - i. Direct instructional expenditures for salaries and related benefits, textbooks, teaching supplies, purchased services, equipment, and other expenses for each program or learning disability program category shall be allocated on an actual basis.
 - ii. When allocating indirect expenditures amongst major programs, such as regular school year special education, extended school year special education and other programs, indirect expenditures, except expenditures for Teachers' Pension and Annuity Fund (TPAF) pension and social security, shall be allocated amongst the various programs based on the percent of direct expenditures in each program to the total of all direct expenditures since there is no common ADE equivalent among the programs.
 - iii. – iv. (No change.)
- (f) Pursuant to N.J.S.A. 18A:46-31, an undesignated general fund balance of 10 percent of

the general fund budget exclusive of tuition adjustments of prior years may be maintained.

1.– 3. (No change.)

4. When undesignated general fund balance is under 10 percent of the general fund budget exclusive of tuition adjustments of prior years, an amount may be added to adjusted expenditures calculated pursuant to (d) above for purposes of calculating the regular school year special education program tuition rate subject to the maximum general fund budget net of county contribution calculated pursuant to the provisions of N.J.A.C. 6A:23A-17.6(a)2.

(g) Calculation of tentative tuition rates, execution of written contractual agreements, payment of tuition (including the nonresident fee), and adjustments to tentative tuition charges upon certification of actual tuition rates by the Commissioner shall be made by the county special services school district board of education in accordance with N.J.A.C. 6A:23A-17.1(e) except that the county special services school district board of education shall base the tentative tuition rates on the county special services school district board of education's estimated adjusted net cost per student consistent with the calculation in (c) through (f) above. The tentative tuition rate and actual cost per student for a given fiscal year shall be calculated in the same manner chosen pursuant to (b) above.

(h) The county special services district board of education shall use the "actual cost per student" certification forms, contract forms, and tentative tuition rate forms as prepared and provided by the Commissioner.

(i) (No change.)

SUBCHAPTER 19. EMERGENCY STATE AID AND RESIDENCY DETERMINATION

6A:23A-19.1 Emergency aid

- (a) (No change.)
- (b) A district board of education may request emergency aid pursuant to N.J.S.A. 18A:58-11 as follows:
 - 1. The district board of education shall submit to the executive county superintendent as follows:
 - i. – ii. (No change.)
 - iii. The board secretary's latest monthly financial report, accompanied by a statement showing the projected [end of the year] **end-of-the-year** general fund free balance[,] **and** a detailed accounting of how the emergency aid will be expended; and
 - iv. (No change.)
 - 2. (No change.)
- (c) (No change.)
- (d) The executive county superintendent shall submit a recommendation regarding a request for emergency aid and all of the information submitted by the district board of education making the request to the [Division] **Office of School Facilities and Finance** to determine whether to recommend to the Commissioner that a request be sent to the State Board of Education for approval.
 - 1. – 2. (No change.)
- (e) The State Board of Education will review any emergency aid requests that have been recommended and will fully approve, partially approve, conditionally approve, or deny an emergency aid request.

6A:23A-19.2 Method of determining the district of residence

- (a) The district of residence for school funding purposes shall be determined according to the following criteria:
1. The "present district of residence" of a child in a residential [state] **State** facility, defined in N.J.S.A. 18A:7F-45 and referred to in the first paragraph of N.J.S.A. 18A:7B-[12b]**12.b**, means the New Jersey district of residence of the child's parent(s) or guardian(s) as of the last school day prior to October 16.
 2. The "present district of residence" of a child placed by a State agency in a group home, skill development home, approved private school for students with disabilities or out-of-State facility, also referred to in [the first paragraph of] N.J.S.A. 18A:7B-[12b]**12.b** means the New Jersey district of residence of the child's parent(s) or guardian(s) as of the date of the child's most recent placement by the State agency. In subsequent school years spent in the educational placement made by a State agency, the child's "present district of residence" shall be determined in the same manner as for a child in a residential State facility as set forth in (a)1 above.
 3. (No change.)
- (b) The "present district of residence" or "district of residence" referred to in N.J.S.A. 18A:7B-[12b]**12.b** shall be determined by the Commissioner or his or her designee based upon the address submitted by the Department of Corrections, the Department of [Human Services] **Children and Families**, or the Juvenile Justice Commission on forms prepared by the Department of Education.
- (c) (No change.)
- (d) A district board of education contesting the Department's determination of district of residence shall submit a written notification of a dispute to the [Division] **Office of School Facilities and Finance**[,] within 30 days of the receipt of a final notice that a

child was determined to be a resident of the district for purposes of State funding. As part of this written notice, the following information shall be submitted:

1. – 2. (No change.)
 3. Any additional information the district board of education has obtained [which] **that** might enable redetermination of the district of residence.
- (e) The [Division] **Office of School Facilities and Finance** shall attempt to resolve the dispute administratively and shall notify the district board of education whether a redetermination of district of residence [shall] **will** be made within 90 days of the receipt of [the] written notification that a dispute exists.
- (f) A district board of education may initiate a formal proceeding before the Commissioner to resolve such a dispute if the [Division] **Office of School Facilities and Finance** is unable to resolve a dispute within the 90-day time limit, by filing a Petition of Appeal with the Commissioner pursuant to the provisions of N.J.A.C. 6A:3, Controversies and Disputes.
- (g) As prescribed by N.J.S.A. 18A:7B-12, the "district of residence" for a homeless child whose parent(s) or guardian(s) temporarily moves from one **school** district [board of education] to another is the district in which the parent(s) or guardian(s) last resided prior to becoming homeless. This district shall be designated as the district of residence for as long as the parent(s) or guardian(s) remains homeless.

6A:23A-19.3 Address submission for determining the district of residence

- (a) The address submitted to the Department for determining the district of residence for school funding purposes for a child described below shall be the address defined below:
1. – 5. (No change.)
 6. If the child resides in a non-resource family home with a relative pursuant to

N.J.S.A. 18A:38-[1d]1.d for one or more years immediately prior to the child's most recent admission to a State facility or most recent placement by a State agency, the present address of the child's relative(s) at the time of this placement is submitted.

7. If the child is age 18 or older[,] or has been legally emancipated; and has lived on his or her own before the initial placement, the present address of the child as of the date required by N.J.A.C. 6A:23A-19.2(a)1 or 2 is submitted.

SUBCHAPTER 20. PURCHASE AND LOAN OF TEXTBOOKS

6A:23A-20.6 Charge for textbook loss or damage

- (a) Each district board of education shall make reasonable rules and regulations governing the loan of textbooks, which may contain requirements for reimbursement by students to the district board of education for damage, loss, or destruction of the loaned textbooks.
- (b) (No change.)

SUBCHAPTER 21. MANAGEMENT OF PUBLIC SCHOOL CONTRACTS

6A:23A-21.1 Change orders and open-end contracts

- (a) Changes in quantities, work performed, services rendered, materials, supplies, or equipment delivered or provided shall not be authorized, permitted, or accepted, except by the procedures established in this section. All change orders are subject to N.J.A.C. 5:30-11 as applicable, and the following:

1. (No change.)
2. Change orders [which] **that** result in payment reduction below the originally contracted price may be made by locally established procedure, provided that any change orders increasing costs on the same contract shall include reference to such reductions;
3. Quantities of items or work shall not be changed in such a manner as to nullify the effect of the competitive determination of lowest responsible price [which] **that** was made at the time of contract award, provided that at said time the changes could have been reasonably foreseen; and
4. Responsibility required by this section to be exercised specifically by the district board of education or charter board of trustees may not be delegated. In those instances in which authority is to be exercised by [some] **a** school official, the authority, responsibility, and required procedures should be clearly spelled out in advance, by resolution.

(b) – (c) (No change.)

(d) Change orders for contracts for materials, supplies, and equipment that are not part **of** a capital project contract are governed by the following:

1. Change orders may be used to change the number of units or items originally advertised and contracted **ed** for, provided [that]:
 - i. – ii. (No change.)
2. – 5. (No change.)
6. Change orders may be authorized by the purchasing agent for price adjustment for petroleum products, provided:
 - i. (No change.)
 - ii. [That the] **The** original bidding specifications and contract so authorize;
 - iii. [That an] **An** objective price benchmark not under the direct control of the

supplier is utilized to establish the price changes, and [that] the changes are not for the purpose of correcting asserted bidding errors; and

iv. [That adequate] **Adequate** funds have been certified as being available.

(e) Change order for professional and extraordinary unspecified services (EUS) contracts are governed by the following:

1. (No change.)

2. If the change is not within the scope of activities of the original contract:

i. If the contract was awarded without competitive bidding being required by law or rule (as in the case for professional services and certain authorized extraordinary, unspecifiable services per N.J.S.A. 18A:18A-[5a(2)]**5.a(2)**), any change beyond the original scope of activities may be made by amendatory contract; and

ii. (No change.)

3. – 4. (No change.)

(f) The issuance of purchase orders pursuant to an open-end contract is considered to be the carrying out of the contract and not a change order. The following requirements apply:

1. A district board of education or charter school board of trustees shall not use orders under open-end contracts for purposes such as changing the quality or character of items to be provided, [nor to] **or** exceed the maximum number(s) of items or units provided for in the original specifications and contract. Such changes would constitute a change order;

2. – 4. (No change.)

6A:23A-21.2 Acceptance of bonds under the Public School Contracts Law

(a) (No change.)

- (b) A district board of education or charter school board of trustees may require in the notice to bidders or in the specifications that bidders guarantee [that] they will enter into a contract with the district board of education or charter school board of trustees and will furnish any prescribed performance bond or other security required as a guarantee or indemnification. The guarantee may be given, at the option of the bidder, by certified check, cashier's check, or bid bond. When the guarantee is given in the form of a bid bond, the district board of education or charter school board of trustees shall ensure that such bid bond:
1. (No change.)
 2. Be given by a responsible individual residing in New Jersey. The district board of education or charter school board of trustees may reject such individual bid bond if [it is] not satisfied with the sufficiency of the individual surety offered.
- (c) The district board of education or charter school board of trustees shall ensure that the bond is in the form of a certificate, identifying the bidder whose acts are guaranteed, the name of the surety company, insurance company or individual surety, and the district board of education or charter school board of trustees in whose favor the bonds are given.
- (d)-(e) (No change.)

6A:23A-21.3 Public sale of bonds

- (a) A district board of education may accept a financial surety bond in lieu of a certified, cashier's, or treasurer's check as a bid deposit pursuant to N.J.S.A. 18A:24-41.a, and in accordance with the rule adopted by the Local Finance Board at N.J.A.C. 5:30-2.10.
- (b) A district board of education may choose to conduct the public sale of bonds through the submission of electronic bids or proposals, as authorized at N.J.S.A. 18A:24-36.a, and in accordance with the rules adopted by the Department of Community Affairs at N.J.A.C.

[5:32-9 and 10] **5:30-2.9 and 2.10.**

6A:23A-21.4 Contracts for behind-the-wheel driver education

- (a) A district board of education or charter school board of trustees shall negotiate or award by resolution at a public meeting contracts with private driver education schools providing behind-the-wheel driver education for any term not exceeding in the aggregate three years, pursuant to N.J.S.A. 18A:18A-42.i, without public advertising for bids. The district board of education or charter school board of trustees shall indicate in such resolution [that] the private driver education school is required to provide behind-the-wheel driver education that is substantially equivalent to that provided by the district board of education or charter school board of trustees at less cost than current or other proposed programs.
- (b) (No change.)

6A:23A-21.6 Multi-year leasing

A district board of education or charter school board of trustees shall execute multi-year leases only as authorized by the Public School Contracts Law at N.J.S.A. 18A:18A-[42f]**42.f** and **18A:20-4.2(f) and** in accordance with rules promulgated by the Department of Community Affairs at N.J.A.C. 5:34-3.

SUBCHAPTER 22. FINANCIAL OPERATIONS OF CHARTER SCHOOLS

6A:23A-22.3 Certification

A charter school board of trustees shall employ or contract with a person who holds a New Jersey standard or provisional school business administrator certificate in accordance with N.J.A.C. 6A:9B-[11.7]**12.7** to oversee fiscal operations of the charter school.

6A:23A-22.4 Financial requirements

- (a) A charter school board of trustees may incur debt for a period no greater than 12 months except:
 - 1. During the first year [that] the charter school is approved when the debt is incurred by the charter school board of trustees for a period no longer than January 15 of the preceding school year to June 30 of the first school year of the charter; and
 - 2. For all other years [that] the charter school is approved when the debt incurred by the charter school board of trustees for a period of 12 months or greater is:
 - i. Fully secured by the value of the real property or other asset, so [that] the total value of all such debt does not exceed the total appraised value of the property or asset by which the debt is secured; and
 - ii. (No change.)
- (b) A charter school board of trustees may acquire real property by a lease or a lease with an option to purchase for use as a school facility providing that the charter school board of trustees shall ensure:
 - 1. (No change.)
 - 2. The lease contains a provision terminating the obligation to pay rent upon the denial, revocation, non-renewal, or surrender of the charter; and
 - 3. (No change.)
- (c) A district board of education shall [only] transmit State and local public funds to a charter

school **only** after the final granting of the charter by the Commissioner has occurred. If funds are withheld pending the final granting of the charter, the district board of education shall pay all withheld funds to the charter school with the first scheduled payment after the effective date of the charter.

- (d) (No change.)
- (e) If, at any time, the Commissioner denies, revokes, or does not renew a school's charter, or a charter school board of trustees surrenders its charter or becomes insolvent, all assets of the charter school board of trustees, after satisfaction of all outstanding claims by creditors, are subject to equitable distribution by the Commissioner among the participating district of residence and non-resident district(s). A charter school board of trustees shall include a provision in its bylaws concerning distribution of assets upon denial, revocation, non-renewal, or surrender of its charter or insolvency of the charter school that is consistent with this rule.

6A:23A-22.5 Public school contract law

- (a) (No change.)
- (b) Any agency, corporation, person, or entity [which] **that** enters into a contract or agreement on behalf of [the] **a** charter school to provide administrative, educational, or other services shall be subject to the provisions of the public school contract law, N.J.S.A. 18A:18A-1 et seq.

6A:23A-22.6 Public relations and professional services; board policies; efficiency

- (a) Each charter school board shall establish by policy or policies a strategy or strategies in order to minimize the cost of public relations, as defined in N.J.A.C. 6A:23A-9.3(c)14,

and professional services. The policy or policies shall include, to the extent practicable and cost effective, but need not be limited to, the following provisions:

1. (No change.)
2. Establishment of procedures to ensure the prudent use of legal services by employees and board of trustees['] members and the tracking of the use of those services;
3. Charter schools with legal costs that exceed 130 percent of the Statewide average charter school per pupil amount should establish the following procedures and, if not established, provide evidence that such procedures would not result in a reduction of costs:
 - i. (No change.)
 - ii. Criteria or guidance to prevent the use of legal counsel unnecessarily for management decisions or readily available information contained in charter school materials such as policies, administrative regulations, or guidance available through professional source materials;
 - iii. (No change.)
 - iv. A provision to maintain a log of all legal counsel contact, including name of legal counsel contacted, date of contact, issue discussed, and length of contact. Legal bills shall be compared to the contact log and any variances shall be investigated and resolved;
4. A provision that requires that contracts for legal services comply with payment requirements and restrictions pursuant to N.J.S.A. 18A:19-1 et seq. and as follows:
 - i. – iii. (No change.)
 - iv. Payment shall [only] be **only** for services actually provided;
5. (No change.)

6. Professional services contracts are limited to non-recurring or specialized work for which the charter school does not possess adequate in-house resources or in-house expertise to conduct.
- i. – iii. (No change.)
- iv. Nothing in this section shall preclude boards of trustees from accepting donations or volunteer services from community members, local private education foundations, and local business owners to conduct or assist in public relations services. Examples include, but are not limited to:
- (1) Providing charter school flyers, newsletters, or other materials containing charter school related information of public concern to local businesses, public meeting places, or other local organizations to display or make available for dissemination;
 - (2) (No change.)
 - (3) Utilizing volunteered services of local community members, charter school employees, members of parent organizations, or local businesses with expertise in related areas such as printing, advertising, publishing, or journalism.

6A:23A-22.8 Verification of payroll check distribution

- (a) [Beginning with the 2009-2010 school year, at] **At** least once every three years[,]
between the months of September through May, charter schools shall require each charter school employee to report to a central location(s) and produce picture identification and sign for release of his or her paycheck or direct deposit voucher. The [district] **charter school** may exclude per diem substitutes from the required verification.

(b) Picture identification shall be in the form of a charter school issued identification card, valid drivers' license, official passport, or other picture identification issued by a state, county, or other local government agency.

(c) – (e) (No change.)

6A:23A-22.9 Board of trustees expenditures for non-employee activities, meals, and refreshments

(a) The following words and terms used in this section shall have the following meanings, unless the context clearly indicates otherwise:

1. “Activities” means events or functions provided or held for the benefit of students, dignitaries, and other “non-charter school” employees (for example, parents) [which] **that** are paid from public funds.
2. “Dignitary” means a notable or prominent public figure; a [high level] **high-level** official; or one who holds a position of honor. A dignitary, for purposes of this section, is not a charter school employee or board of trustees member.

(b) Allowable expenditures for non-employee charter school board of trustees activities shall include:

1. All reasonable costs, including light meals and refreshments, directly related to activities that benefit students and are part of the instructional program, including expenditures for field trips and extracurricular programs that are not solely for entertainment. Nothing in this subsection shall preclude boards of trustees from using student activity funds or accepting donations to support student activities that are solely for student entertainment;
2. All reasonable costs directly related to activities of dignitaries and other “non-charter school” employees (for example, parents), including light meals, [and]

refreshments, and any other directly related expense. It is expected that expenditures for this purpose will be minimal and infrequent;

3. – 4. (No change.)

(c) (No change.)

(d) Pursuant to N.J.S.A. 18A:11-12 and [State of] New Jersey Department of **the** Treasury, Office of Management and Budget Circular [08-19-OMB] **16-11-OMB, Travel Regulations,** and [06-14-OMB] **11-09-OMB, Entertainment, Meals, and Refreshments,** the following costs shall not be permitted using public funding:

1. Receptions, dinners, or other social functions held for or honoring any employee or group of employees of the charter school (for example, breakfast, luncheon, dinner, or reception for retirees or award recipients). This does not prohibit [districts] **charter schools** from honoring employees without a social function or using public funds to support reasonable costs of employee recognition awards (for example, [teach] **teacher** of the year awards, years of service awards). Use of public funds for reasonable costs of employee awards is a local discretionary expenditure;

2. – 3. (No change.)

(e) Documentation required to support activities, meals, and refreshments at charter school events shall be:

1. – 4. (No change.)

6A:23A-22.10 Nepotism policy

(a) As a condition of receiving charter school aid, charter school board of trustees shall implement the nepotism policy established by this subsection [by January 20, 2010]. The nepotism policy shall include the following:

1. (No change.)
2. A provision prohibiting any relative of a board member, lead person, or chief school administrator from being employed in an office or position in [that] **the** charter school except that a person employed or to be promoted by the charter school on the effective date of the policy or the date a relative becomes a board member or chief school administrator shall not be prohibited from continuing to be employed or to be promoted in the school, and a charter school may employ a relative of a board member, lead person, or chief school administrator provided [that] the charter school has obtained approval from the executive county superintendent of schools. Such approval shall be granted only upon demonstration by the [school district] **charter school** that it conducted a thorough search for candidates and [that] the proposed candidate is the only qualified and available person for the position;
3. A provision prohibiting the chief school administrator/lead person from recommending to the board, pursuant to N.J.S.A. 18A:12-[21-34]**21 through 34**, any relative of a board member or chief school administrator/lead person unless the person is subject to the exception of (a)2 above;
4. A provision prohibiting a charter school administrator from exercising direct or indirect authority, supervision, or control[,] over a relative of the administrator. Where it is not feasible to eliminate such a direct or indirect supervisory relationship, appropriate screens and/or alternative supervision and reporting mechanisms must be in place;
5. A provision prohibiting a charter school administrator or board member who has a relative who is a member of the bargaining unit from discussing or voting on the proposed collective bargaining agreement with that unit or from participating in any way in negotiations, including, but not limited to, being a member of the

negotiating team; nor should that charter school administrator be present with the school board in closed session when negotiation strategies are being discussed; provided, however, [that] the administrator may serve as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the charter school can provide such information; and

6. A provision prohibiting a charter school administrator who has an immediate family member who is a member of the same Statewide union in [another] **a** school district or **another** charter school from participating in any way in negotiations, including, but not limited to, being a member of the negotiating team or being present with the board in closed sessions when negotiation strategies are being discussed, prior to the board attaining a tentative memorandum of agreement with the bargaining unit that includes a salary guide and total compensation package; once the tentative memorandum of agreement is established, a charter school administrator with an immediate family member who is a member of the same Statewide union in [another] **a** school district or **another** charter school may fully participate in the process, absent other conflicts.

Notwithstanding the above in this paragraph, a [district] **charter school** administrator who has an immediate family member who is a member of the same Statewide union in another [district] **charter school** may service as a technical resource to the negotiating team and may provide technical information necessary to the collective bargaining process when no one else in the [district] **charter school** can provide such information.

- (b) (No change.)

- (a) As a condition of receiving charter school aid, charter schools shall have policies that comply with the provisions of this section to ensure that the charter school shall maintain honest and ethical relations with vendors and shall guard against favoritism, improvidence, extravagance, and corruption in its contracting processes and practices. [Such policies shall be adopted by the charter school and implemented by January 20, 2010.] The terms "business entity" and "interest" as used below are defined as set forth in P.L. 2004, c. 19.
1. No board will vote upon or award any contract in the amount of \$17,500 or greater to any business entity [which] **that** has made a contribution reportable by the recipient under P.L. 1973, c. 83 (N.J.S.A. 19:44A-1 et seq.) to a member of the charter school board of trustees during the preceding one-year period.
 2. Contributions reportable by the recipient under P.L. 1973, c. 83 (N.J.S.A. 19:44A-1 et seq.) to any member of the **charter** school board **of trustees** from any business entity doing business with the charter school are prohibited during the term of a contract.
 3. When a business entity referred to in (a)2 above is a natural person, a contribution by that person's spouse or child [that] **who** resides therewith shall be deemed to be a contribution by the business entity. Where a business entity is other than a natural person, a contribution by any person or other business entity having an interest therein shall be deemed to be a contribution by the business entity.
 4. – 5. (No change.)
 - [6. With the exception of charter schools previously subject to the requirements of N.J.A.C. 6A:10-2.1(e), this subsection shall not apply to contributions made prior to December 21, 2009.]

6A:23A-22.12 Internal controls

- (a) As a condition of receiving charter school aid, each charter school shall establish specific policies and procedures on internal controls to provide management with reasonable assurance that the charter school's goals and objectives will be met and that meet the requirements of N.J.A.C. 6A:23A-22.6 through 22.15. Internal controls shall promote operational efficiency and effectiveness, provide reliable financial information, safeguard assets and records, encourage adherence to prescribed policies, and comply with law and regulation.
- (b) The specific internal controls contained in this subchapter shall be established together with other internal controls contained in N.J.A.C. 6A and other law and regulations, required by professional standards, including auditing standards generally accepted in the United States under Generally Accepted Accounting Principles (GAAP), standards contained in Government Auditing Standards (GAS) issued by the Comptroller General of the United States, and as deemed necessary and appropriate by charter school management. Any charter school may submit a written request to the Commissioner to approve an alternate system, approach, or process for implementing the internal controls required in this subchapter. The application must include documented evidence that includes, but is not limited to, an independent, third-party written assessment that the alternative system, approach, or process will achieve the same safeguards, efficiency, and other purposes as the specified internal control requirement(s).

6A:23A-22.13 Segregation of duties; organization structure

- (a) (No change.)
- (b) The school business administrator shall identify processes that, when performed by the

same individuals, are a violation of sound segregation of duties. The school business administrator shall segregate the duties of all such processes among business office staff based on available charter school resources, assessed vulnerability, and the associated cost-benefit.

6A:23A-22.14 Standard operating procedures (SOPs) for business functions

- (a) [By July 1, 2010, each] **Each** charter school shall establish SOPs for each task or function of the business operations of the charter school.
- (b) An SOP manual shall include sections on each routine task or function of the following areas:
 - 1. Accounting, including general ledger, accounts payable, accounts receivable, payroll, [and] fixed assets, and year-end procedures for each;
 - 2. (No change.)
 - 3. Budget development and administration, including tasks such as authorization of transfers and overtime;
 - 4. (No change.)
 - 5. Purchasing, including such tasks as preparation of requisitions, approval of purchase orders and encumbering of funds, bid and quote requirements; and verification of receipt of goods and services;
 - 6. Facilities, including administration of work and health and safety;
 - 7. – 13. (No change.)
- (c) An SOP shall be established that ensures office supplies are ordered in appropriate quantities, maintained in appropriate storage facilities, and monitored to keep track of inventory.

- (a) A charter school board shall adopt a policy establishing the approval process for any remittance of payment for invoice amounts greater than the approved purchase order. The policy shall require the school business administrator to identify[,] and investigate, if necessary, the reason for any increase to a purchase order. If it is found that such an increase is warranted, the school business administrator shall either approve a revision to the original purchase order with the reason noted, approve the issuance of a supplemental purchase order for the difference, or cancel the original purchase order and issue a new purchase order. If it is found that such an increase is not warranted, the purchase order shall be canceled and the goods returned. In no instance shall an adjustment be made to a purchase order that changes the purpose or vendor of the original purchase order or a bid award.
- (b) Financial systems shall be programmed to:
 - 1. Limit system access so [that] only appropriate business office staff may make purchase order adjustments;
 - 2. – 7. (No change.)
- (c) The school business administrator shall review on a monthly basis edit/change reports listing all payments made in excess of the originally approved purchase order amount to ensure [that] all payments made are properly authorized.